

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 17th May 1954.

The House met in the Council Chamber, Fort St. George, at half-past two of the clock, Mr. Chairman (THE HON. DR. P. V. CHERIAN) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTION.

Location of offices of Heads of Departments of the Andhra State in Madras City.

* 66 Q.—SRI V. GURUNANDAN ROW : Will the Hon. the Chief Minister be pleased to state—

(a) the number and names of offices of Heads of Departments of the Andhra State which continue to be located in Madras City; and

(b) whether the Government have ascertained from the Andhra Government as to when they are likely to be shifted to the territory of Andhra State?

THE HON. SRI M. BHAKTAVATSALAM (on behalf of the Hon. the Chief Minister):—“(a) All offices of the Heads of Departments of the Andhra State except those of the Inspector-General of Police and Chief Engineers of the Public Works Department, are still located in Madras City.

“(b) These Andhra offices in Madras City are located in private rented buildings, and they will be shifted to the Andhra area as and when the Government of Andhra are able to make suitable arrangements for locating these offices in the Andhra State. This is the arrangement agreed to at the time of the partition.”

SRI V. GURUNANDAN ROW :—“Sir, are the Madras Government getting anything by way of rent?”

THE HON. SRI M. BHAKTAVATSALAM :—“I have stated, Sir, that these offices are located in private rented buildings in the City. So, there is no question of the Madras Government getting any rent.”

UNSTARRED QUESTIONS.

District Advisory Committees functioning under the Chairmanship of the District Collectors.

4 Q.—SRI T. PURUSHOTHAM : Will the Hon. the Minister for Finance and Education be pleased :

(a) to lay on the table of the House a list of the District Advisory Committees functioning under the Chairmanship of the District Collectors showing details regarding the constitution and purpose of each of the committees; and

[17th May 1954]

(b) to state whether there are any similar Taluk Advisory Committees for different purposes?

A.—(a) & (b) A list * containing the information is attached.

Progress of Araniar Irrigation Scheme.

5 Q.—SRI T. PURUSHOTHAM: Will the Hon. the Minister for Public Works be pleased:

(a) to lay on the table of the House a statement showing the progress of Araniar Irrigation Scheme, the establishment sanctioned for the work, the expenditure on the work till 30th September 1953 and the amount of Central Government grant allotted for the work; and

(b) to state how far the land acquisition work on either side of the State border has been completed and whether the Andhra State has been addressed for ensuring early completion of the work?

A.—(a) (1) *Progress made in the execution of the Araniar Project.*—Camp buildings for immediate requirements have been completed. The bund has been formed from L.S.O. to 750 and L.S. 9,600 to 11,800. Sinking wells in the river for cut off arrangements is in progress.

Surattapalli anicut.—The construction of the anicut is nearing completion. The stage of construction up to the end of January 1954 is as follows:—

(i) *Body-wall.*—300' 0" length has been completed. For 190' 0" body-wall has been raised for 2' 0" height. For the balance length, viz., 26' 0" piles were sunk.

(ii) *Groyne wall.*—Built to a height of 13' 0" out of 14' 0".

(iii) *Scour and head sluices.*—Walls raised to a height of 14' 0" above floor level.

(iv) *Flood bank formed.*—

Right side—1,000' 0".

Left side—200' 0".

(2) *Establishment sanctioned for the work.*—

I. *Public Works Department staff.*—

The following establishment was sanctioned and it was continued up to 31st March 1954:—

Headworks Division.—

One Executive Engineer.

Three Assistant Engineers.

Twelve Supervisors.

One Divisional Accountant.

One Head Clerk.

17th May 1954]

Headworks Division—cont.

- .Five Upper Division Clerks.
- Six Lower Division Clerks.
- One Draftsman, II Grade.
- Three Draftsmen, III Grade.
- One Tracer.
- One Typist.
- Twenty-two peons.

Anicut and Canals Subdivision—

- One Assistant Engineer.
- Five Supervisors.
- One Upper Division Clerk.
- One Lower Division Clerk.
- One Draftsman, III Grade.
- One Tracer.
- One Typist.
- Seven Peons.

*For the office of the Superintending Engineer,
Madras Circle—*

- One Draftsman, II Grade.
- One Upper Division Clerk.

For the Chief Engineer's Office—

- One Lower Division Clerk.
- One Draftsman, III Grade.

*Establishment retained from 1st April to 30th April
1954—*

Executive Engineer	..	..	One
Assistant Engineers	..	..	Two
Supervisors	..	..	Four
Divisional Accountant	..	..	One
Divisional Head Clerk	..	..	One
Upper Division Clerks	..	..	Four
Lower Division Clerks	..	..	Six
Draftsman, II Grade	..	..	One
Draftsman, III Grade	..	..	One
Tracer	..	..	One
Typists	..	..	Two
Peons	..	..	Nine

*Establishment retained from 1st May 1954 to 28th
February 1955—*

Assistant Engineer	..	..	One
Supervisors	..	..	Four
Upper Division Clerk	..	..	One
Lower Division Clerks	..	..	Two
Draftsman, III Grade	..	..	One
Typist	..	..	One
Peons	..	..	Five

[17th May 1954]

II. Revenue staff for land acquisition works—

One Special Deputy Collector.

One Special Deputy Tahsildar.

One Upper Division Clerk.

One Lower Division Clerk (as Special Revenue Inspector).

Two Lower Division Clerks (to work as Revenue Inspectors).

Two Lower Division Clerks.

Two Special Deputy Surveyors.

One Minor Irrigation Overseer.

One Typist.

Four Chainmen.

Seven Peons.

(3) *Expenditure on the work till 30th September 1953 is Rs. 11,28,585.*

(4) *Grant allotted by the Central Government.*—No grant from the Centre has either been applied for or sanctioned for this work.

(b) *Chingleput district.*—An extent of 20·47 acres in Repalapattu and 2·19 acres of lands in Suratpalli has been occupied by Public Works Department under emergency provisions. The extent of lands in Chingleput district for which notification under section 4 (1) of the Land Acquisition Act has been issued is 733·51 acres. The extent of lands under survey for acquisition is 358·44 acres in Mudiur, and yet to be surveyed is 8·68 acres in Suratpalli. Notification will be issued only on completion of surveying by the Special Deputy Collector. Award has been passed in respect of 10·14 acres of land in Pisatoor village and the lands are to be handed over to Public Works Department after payments are made.

Chittoor district.—1,253·79 acres of lands have to be surveyed and acquired for the project in Chittoor district. Notification under section 4 (1) of the Land Acquisition Act has been issued.

The Andhra Government have been addressed to take steps to continue the acquisition proceedings in respect of lands required in Chittoor district and hand them over to this Government. The Andhra Government's reply is awaited.

17th May 1954]

[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGE FROM THE GOVERNOR.

MR. CHAIRMAN :—“ I have to announce to the House that I have received the following Message, dated the 16th May 1954, from the Governor of Madras :—

‘ In pursuance of Article 207, clause (3), of the Constitution of India, I, Sri Prakasa, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Electricity Undertakings (Acquisition) Bill, 1954, as passed by the Madras Legislative Assembly.’

III.—MESSAGE FROM THE ASSEMBLY.

MR. CHAIRMAN :—“ I have also to announce to the House that I have received the following Message, dated the 17th May 1954, from the Hon. the Speaker, Madras Legislative Assembly :—

The Madras Payment of Salaries and removal of Disqualifications (Amendment) Bill, 1954 (L. A. Bill No. 24 of 1954).

‘ In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras Payment of Salaries and Removal of Disqualifications (Amendment) Bill, 1954 (L.A. Bill No. 24 of 1954), as passed by the Assembly, on the 17th May 1954, and signed by me, for the concurrence of the Council.’ ”

IV.—ANNOUNCEMENT BY THE HON. THE CHAIRMAN *RE* ELECTION OF ONE MEMBER TO THE COMMITTEE OF PRIVILEGES.

MR. CHAIRMAN :—“ I have further to inform the House that Sri T. G. Krishnamurthi, M.L.C., has been nominated for the election of one member to the Committee of Privileges for the financial year 1954–55 in the vacancy caused by the vacation of seat of Dr. C. Nathamuni Naidu, consequent on the expiration of his term of office of membership of the Legislative Council with effect from 20th April 1954.

“ As Sri T. G. Krishnamurthi is the only candidate nominated for the vacancy to be filled, viz., one, I hereby declare him to have been duly elected to the Committee of Privileges.”

V.—GOVERNMENT BILLS.

(1) THE MADRAS PRESERVATION OF PRIVATE FORESTS (AMENDMENT) BILL, 1953 (L.A. BILL NO. 23 OF 1953).

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“ Sir, I beg to move—

‘ That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be taken into consideration.’

Sir, this is a simple Bill necessitated on account of certain difficulties experienced in the working of this Act. The object of the Bill is to preserve the forest wealth in the district of Malabar. Very valuable forests are owned there by private individuals. The Preservation of Private Forests Act prevented the indiscriminate felling of the trees. The permission of the Collector is necessary in any

[Sri M. A. Manickavelu Naicker] [17th May 1954]

particular case of felling. There is a provision that in blocks of contiguous forest exceeding one hundred acres in extent, there should not be any indiscriminate felling. But several of these forests are owned jointly and severally. Also there are cases of persons owning more than one hundred acres each, but they lease out those forests to others so that they may get over the provisions of the Act. The Act does not interfere with forests of 100 acres and less. Therefore, they manage to get over the provisions of the Act. In order to prevent this escape from the provisions of the Act, the present Bill is brought forward."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly be taken into consideration.' "

* SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, the Hon. Minister in moving that the Bill be taken into consideration referred to some difficulties which necessitated the amendment of the Act. I know what the difficulty referred to by the Hon. Minister is. Section 1 (2) (i) of the Act was made applicable to Malabar by the words ' to private forests in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres and owned by a single person or by more than one person jointly '. What the Hon. Minister now proposes to do is to omit the words ' and owned by a single person or by more than one person jointly '. Before this Bill was brought forward, there were some prosecutions in Malabar against forest owners for violating the provisions of this Act. It was found that a *janmi* (landlord) in Malabar had in his actual possession only less than 100 acres of forest, and that he had leased out to others, forests which were his, and which were lying contiguous to the forests which were in his actual possession. Under the system of tenure obtaining in Malabar, the *janmi*, who is in actual possession of less than 100 acres of forests, and who has leased out his forests lying contiguous to the forests which are under his own actual possession, cannot sell the trees grown in the forests given on lease or do anything with them. Sir, I had myself the honour of defending an important personage who was prosecuted under the provisions of this Act, and getting him acquitted. He could not be convicted, as the forests in his possession were less than 100 acres in extent. He had no mastery over the forests lying contiguous to his forests and which were leased out. The then District Collector, Mr. Prasad, reported this matter immediately to the Government, and he wanted that this Act should be amended. I have no quarrel over this amendment because the purpose of the amendment is that, whether the landlord is actually in possession of more than one hundred acres or not, or whether his tenants are or are not in possession of other blocks of land lying contiguous to his forests, the forests must be preserved. That is the main purpose of the amendment. It is made clear that the Collector can give permission to alienate the forests or to cut trees in

17th May 1954] [Sri M. P. Govinda Menon]

the forests.. In cases where necessary the parties can apply to the Collector of the District and get his permission to alienate the forests or to allow the felling of trees. Such a power is necessary to be vested in the hands of the executive because during the last few years there has been indiscriminate cutting of trees. Huge forest areas have been denuded in the last few years, perhaps ever since the last Great War began. Now the abundant forest wealth which Malabar had for generations, had been reduced year after year by indiscriminate cutting of trees. It is absolutely necessary to preserve the forests in Malabar. A part of the forests in Malabar is in actual possession of the Government. But a larger and bigger area is still in the possession of private owners. In ancient days there was not much difficulty regarding the private ownership of forests because in those days the private owners were not allowing the indiscriminate cutting and destruction of the forest. They were themselves having large joint families. They were big Rajahs, big Nambudiri families or Nair aristocrats and each of these joint families consisted of nearly 100 to 200 members. The manager of the family was helpful in preserving the forests. Now as a result of the passing of the Marumakkattayam Act and the Namboodiri Act in 1933 the families got divided, and the junior member of the big Rajah's family, when he gets a portion, is not so anxious as the old managers were in preserving the forests. These junior members of families either sold the forests or allowed indiscriminate cutting of trees. So I am glad the Government want to remove the defect in the Act and prevent indiscriminate cutting of trees. In cases where necessary the Collector of the District gives permission to alienate or allow the cutting of trees. To that extent I welcome the amendment. But, Sir, always my complaint against the Government is that they never do the right thing at the proper time. There is no use of small reforms. So far as these things are concerned Government must have a bold policy. Here in the district of Malabar there are big forests. Forests are the national wealth. Therefore, forests must be preserved for the sake of the nation. Why not the Government take the whole forest area under their control and preserve the forest? Even now it is said that our monsoons fail because there are no trees in the forests. Whether it is a scientific proposition or not, I am not prepared to say. I do not want to enter into a domain where I have no authority to enter. Anyway it has been admitted that preservation of the forest wealth of the country is an absolute necessity. It is therefore high time for the Government to consider the proposal to take over the forests in Malabar district and make the forests of Malabar the concern of the Government. There is indiscriminate cutting going on and it cannot be allowed to continue any further. Even the Government of India have realized the necessity for planting more trees. We have what is known as 'Vana Mahotsava' celebrated once a year. You know, Sir, we know and every body knows what it is. With great respect to the author of the 'Vana Mahotsava' who adorns the gubernatorial gadi in Uttar Pradesh and to other leaders who are connected with it, I must say it has become a farce. (Interruption.) The Hon. Minister says 'ceremony' and I shall use that word.

[Sri M. P. Govinda Menon] [17th May 1954]

It has only become an annual ceremony. It has been my fate every year to be caught hold of by the Deputy Tahsildar of my place to plant a tree during the 'Vana Mahotsava' ceremony. But there is one peculiarity that we must note in this ceremony. The pit that was dug last year will be there and only the planting is to be done. Every year the pit need not be dug because no tree comes up. This is only a farce which we as M.L.As. or M.L.Cs. are asked to perform every year. It is a huge waste of money. It has not increased the number of trees in the country. On the other hand if the Government take over all the private forests and preserve them, the national wealth can be preserved. There are a number of elephants in our forests. Malabar forests are famous for elephants. Instead of wasting money on the ceremonial farce as the Hon. Minister puts it, the Government must take over the private forests and manage them themselves.

"Sir, there is another thing which I want to bring to the notice of the Hon. Minister and the Treasury Bench especially. Whatever law the Government may pass, the person who is to carry it out must be above board. My experience, as far as the persons and officers in charge of the enforcement of the provisions of the Private Forests Act is concerned, is not altogether pleasant. I do not want to name people here. It is also not fair to do so on my part. They are very, very below expectations. A large number of trees are being cut in the district of Malabar and this is not brought to the notice of the Collector, because the officials wink at this, and naturally for very good consideration perhaps. Whatever it is, unless Government have a grip on these officers there is no use of passing any number of legislations. The Government may amend this Section or that Section but unless there is a real grip on the officers, no good can come out of all these amendments.

"There is one small flaw in the amendment which I wish to point out to the Government. Of course, I had to study the Act in great detail, because in this connexion I had to take up some cases. There is no decision of the High Court on the matter which I wish to refer to, and because that matter was not taken to the High Court we had to struggle hard to find the interpretation of the Section. In this connexion I would invite the attention of hon. Members, Sri Bhashyam and Sri Balasubramania Ayyar, to this fact. According to section 2 (b) of the original Act, owner includes a mortgagee, lessee or other persons having right of possession and enjoyment thereof. The courts in the mufassal interpret it as to include the owner also. That is to say, if a *janmi* happens to demise on *kanam* tenure to a party a portion of the forest, the *janmi* also continues to be the owner. Because the Act says 'includes', the courts interpret that the *janmi*, though he is not in actual possession and enjoyment of the trees, is still the owner. Then section 7 of the original Act says: 'Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 or any of the terms of a notification under section 6 shall be punishable with imprisonment which may extend to two years or with fine which may extend to

17th May 1954] [Sri M. P. Govinda Menon]

five thousand rupees or with both'. Section 3 (1) (a) says: 'No owner of any forest shall, without the previous sanction of the District Collector sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.' Sub-section (2) of section 3 says: 'No owner of any forest and no person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of the Madras Preservation of Private Forests Act, 1946, or any other person shall, without the previous permission of the District Collector, cut trees or do any act likely to denude the forest or diminish its utility as forest'. If anyone should violate these provisions, he is liable to be prosecuted and also to be imprisoned and fined to the extent of Rs. 5,000. The interpretation given is this. You are an owner. You are in possession of forests less than one hundred acres in extent and a portion thereof is in the possession of the Kanam demisee. You have no right to enter the forest and enjoy the fruits thereof. The Kanam demisee cuts the trees or grants a licence to cut trees. In that case even you, a *janmi*, though not in possession of the forest, and not also in enjoyment of the fruits thereof, may be prosecuted. That is what is taking place now. (Interruption.)

"I do not agree with the Hon. Sri C. Subramaniam. Of course, the District Collector can sanction the cutting of trees but it very often happens that there is some difficulty in getting his sanction. As far as I can see, it is perhaps too late now to make an amendment because no Bill has ever been sent back from this House to the Assembly with an amendment and the Treasury Bench will not also consent to accept any amendment in this House. Of course, there is no 'War of the Houses' here as we have got in Delhi. This House must also be respected. Anyhow, I do not think that it is of any use to bring forward an amendment now. The Government are entitled to make rules under the rule-making powers vested in them and I would request the Hon. the Minister in charge to frame the rules in such a way that, if any tree is cut from a portion of the tenant's property over which the *janmi* has no control, the *janmi* will not be prosecuted." 2-50 p.m.

SRI K. BHASHYAM:—"I do not think the *janmi* is being prosecuted."

* SRI M. P. GOVINDA MENON:—"There will be no difficulty if the definition of the owner is more clear. I had to face this difficulty in a court. Of course, I won, but the difficulty is always there that sometimes the courts do interpret the owner to include the *janmi* also. The rules will permit the Collector to sanction the cutting of trees. It will be better if the rules are framed in such a way that the position of the tenant and that the *janmi* is made clear. With these words, Mr. Chairman, I heartily support this Bill which is absolutely essential. I am glad that the Government are taking steps to protect the forests in Malabar or at least intend to protect the forests there. I therefore support the Bill."

[17th May 1954]

* SRI K. BHASHYAM :—“ Mr. Chairman, Sir, I am glad that this is an interval in which we are trying to pass a measure which does not seek to impose any tax upon the people. I am glad about it. We are trying to pass a measure which is a beneficent measure not only to Malabar and the West Coast but to the whole of this State. After all, the forests of Malabar are as necessary for causing rainfall in the plains as in the district of Malabar itself. I am therefore glad that the Government have lost no time in bringing forward this amending Bill.

“ As I am not very familiar with the subject of this legislation, I would like to have some information. The whole difficulty seems to have arisen because the Government have treated the forests in Malabar and South Kanara on a different footing from the private forests elsewhere. In section 1, sub-section 2 (i) of the principal Act it is stated that the Act applies to private forests in the districts of Malabar and South Kanara, and in sub-section 2 (iii) of the same section it is stated that it also applies to private forests situated in other areas in the State of Madras having a contiguous area exceeding 100 square miles which may be declared by the State Government to be forests for purposes of this Act. If only the Government had taken care to see that Malabar and South Kanara were not excluded from the operation of this sub-section, the Government could have easily declared all private forests whether in Malabar and South Kanara or not to come within the provisions of this sub-section. But somehow or other, as is always the case, Malabar and South Kanara have received special treatment.”

SRI M. P. GOVINDA MENON :—“ Yes, except from the Treasury Bench.”

* SRI K. BHASHYAM :—“ Sir, there may be customs peculiar to Malabar, but as regards this matter there can be no peculiar feature and I would like to point out that this amendment would have been unnecessary if only sub-section 2 (i) had not been there. Anyhow, the Government have brought forward this amending Bill, not after consulting me but after consulting their own officers, and I do not mind it so long as the purpose is achieved. However, I would like the Hon. the Minister for Revenue to explain what is exactly meant by the two Explanations which he wants to add to Clause 2 of the Bill before us. The first explanation is—

“ Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to the 14th December 1949 by an owner or any person claiming under him.”

The Madras Preservation of Private Forests Act was passed in 1946. If, as a matter of fact, between 1946 and 14th December 1949, when the existing Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), was passed, there had authorisedly or unauthorisedly been fugitive cultivation why should it be recognized now and be exempted from the provisions of this Act? I do not know what exactly will be the effect of it. I am also not able to understand the definition of private forests as having a contiguous area of 100 acres read along with the second

17th May 1954] [Sri K. Bhashyam]

Explanation which is sought to be added. It is still more difficult for me to understand as I am not very familiar with this subject. It says—

‘A private forest exceeding 100 acres in extent shall not cease to be such by reason only of the fact that, in a portion thereof, trees or shrubs are filled with or without the permission of the District Collector, or lands are cultivated, or rocks, roads, tanks, rivers or the like exist; nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances.’

I do not know what exactly is meant by this. Even if there be some cultivated areas within a forest, the whole area can be declared contiguous in spite of this cultivation. I think this provision ‘having a contiguous area, exceeding 100 acres’ was already in the old Act of 1949. There is no necessity for this Explanation, and we shall pass it by.

“What happens, however, in such cases as unauthorized felling of forest trees, is the difficulty in regard to the person to be punished or the person to be held responsible for such cutting or breach of the law. I think section 7 of the Act of 1949, as it stands, easily leads to the position or circumstances stated by the hon. Member, Sri M. P. Govinda Menon. Section 7 merely says: ‘Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 . . . shall be punishable . . .’ The man who contravenes these provisions can be the lessee, that is the kanamdar, or the owner thereof, namely, the *janmi*. If a portion of the forest is felled by the lessee or the kanamdar without the permission of the *janmi* there is no question as to the owner of the forest, the *janmi*, also being liable along with the lessee. To my mind the matter is very clear; it is fairly plain that it is not the owner who contravenes the law and the person really liable is the lessee or the kanamdar. There is therefore no difficulty whatsoever. Still, if there is any difficulty, I agree with the hon. Member, Sri M. P. Govinda Menon that the matter may be cleared beyond doubt in the rules to be made under the rule-making powers of the Government. I therefore fully support this measure which is of a very beneficial nature and hope it will be passed without any opposition.”

* THE HON. SRI M. A. MANICKAVELU NAICKER :—“Mr. Chairman, Sir, I am glad this Bill has had a good reception. My hon. Friend, Sri M. P. Govinda Menon, after successfully advocating the cause of his client and getting him off and thereby doing the material part of his duty, is doing the spiritual part of his duty here by supporting this Bill. I am glad he has kept these two things apart and does not mix them up with his legislative duties. He expressed that there was some doubt as to the question of fixing the responsibility for an offence under this Act and that there was a lacuna which was likely to be misinterpreted.

“But after hearing the hon. Member Sri K. Bhashyam it is clear no such thing will arise because even the Section says that the term ‘owner’ includes lessee also. I prefer to take the advice 3 p.m.

[Sri M. A. Manickavelu Naicker] [17th May 1954]

of a senior lawyer Member in this matter, namely, Sri K. Bhashyam. Then, it was asked why the date 14th December 1949 has been put in. Sir, it was put in for a spécial purpose. There has been illegitimate fugitive cultivation going on. During the discussion in the Select Committee some hon. Members wanted to put the date as even '1954'. We discussed the whole thing and we came to the conclusion that the date of the second amendment of the Bill may be put in because there would not be any hardship thereby. Such unauthorized cultivation as had taken place prior to 14th December 1949 will be recognised. All other unauthorized cultivation arising after that date will not be recognized. That is the idea in putting that date. Then, with regard to the Explanation under Clause 2 (b), very ingenious lawyers have raised the point that the contiguous nature of a forest is lost, if there is some cultivation in a portion thereof or, if there is a river or a tank. It is to avoid these difficulties that this Explanation is put in. I hope I have sufficiently explained the matter. As hon. Members are welcoming this Bill, I hope there will be no difficulty in getting it through."

MR. CHAIRMAN :—" The question is—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2, 3, 4, 1 and the Preamble were put and carried.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I move—

' *That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be passed into law.* '

MR. CHAIRMAN :—" Motion moved—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be passed into law.' "

* SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, I just rise to clear the doubts of the hon. Member Sri K. Bhashyam. The Explanation to Clause 2 (a) says: ' Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to the 14th December 1949 by an owner or any person claiming under him '. Sir, there has been some sort of unauthorized entry and fugitive cultivation. The nature of such fugitive cultivation must be understood. Persons, cut the trees, burn them, clear the forests and make the land fit for this type of cultivation. This is also known as *ponam* cultivation. Whether authorized or unauthorized much labour has been

17th May 1954] [Sri M. P. Govinda Menon]

put in with a view to raising food-crops in those days of scarcity. That is why the Explanation has been put in. There is sufficient notice to the persons concerned."

* SRI K. BHASHYAM :—" I am still in doubt even though what the hon. Member said may be quite correct. I ask why should a person, who has done *ponam* cultivation and who has been allowed to do so, be exempted? There may be some more trees left upon the land in which *ponam* cultivation has taken place. To that extent at least the man must be prevented from felling any more trees. Therefore, I do not understand why exemption should be given in respect of such persons."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, if even the hon. Member coming from Malabar, who has studied the subject and handled cases, is not able to convince the hon. Member Sri K. Bhashyam, I am sorry I cannot."

MR. CHAIRMAN :—" The question is—

' That the Madras Preservation of Private Forests (Amendment) Bill, 1953 (L.A. Bill No. 23 of 1953), as passed by the Assembly, be passed into law '."

The motion was carried and the Bill was passed into law.

(2) THE MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE AND HEREDITARY VILLAGE OFFICES (AMENDMENT) BILL^a, 1954 (L.A. BILL NO. 22 OF 1954).

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I beg to move—

' That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill^a, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be taken into consideration.' "

Sir, the object of this Bill is to provide for the suspension of village officers during the pendency of an enquiry into their conduct. This is not provided for in the Act. That is why we are introducing this provision conferring the power on officers to suspend a village officer pending enquiry."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be taken into consideration.' "

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, when I looked into the Act I found that the Collector has got the power to suspend or dismiss any village officer. Suspension pending enquiry is also suspension. The law does not require any further amendment for the purpose of suspending a village officer

[Sri K. Balasubramanya Ayyar] [17th May 1954]

pending enquiry. Why should we raise a new point and for that purpose bring in legislation which will create some trouble? After all, when we suspend a person, there is the further difficulty of appointing some other person. If we suspend a village officer pending enquiry, some other person from among the heirs of the particular village officer should be found and he must be appointed for a short time. The power of suspension is already there. Why should we now say 'pending enquiry'? No court has till now decided that we have not got the power to suspend the village officer. Under section 7 of the Act, we have got the power to suspend and dismiss."

THE HON. SRI C. SUBRAMANIAM:—"One form of punishment may be suspension. But, before coming to a decision whether a particular village officer is guilty or not, whether we can place him under suspension, is a doubtful point. That is why we are introducing this Bill."

SRI K. BALASUBRAMANYA AYYAR:—"Sir, suspension pending enquiry is punishment. An officer is suspended only if there is a suspicion against him."

3-10 P.m. "The Government can dismiss an officer for any reason. The Government can suspend or dismiss an officer. The Act is itself clear, unless the Government want to read something extra into it. Suspension itself is punishment."

THE HON. SRI C. SUBRAMANIAM:—"Sir, on numerous occasions it was not held to be so."

SRI K. BALASUBRAMANYA AYYAR:—"If the Government suspend an officer that itself is punishment. It may not, however, be final punishment. Why should we bring in a Bill for suspending an officer pending enquiry? There is already provision for this in the Act."

* SRI G. KRISHNAMURTHI:—"Sir, I should like the Hon. Minister, who is piloting this Bill, to enlighten the House on the following points: (1) Are the village officers full-time servants? (2) Are they Government servants? (3) Are the Government Servants' Conduct Rules applicable to them? (4) Have they any leave registers maintained by their superiors? (5) If they are suspended, are they to be suspended up to the period of leave to their credit? (6) Are they paid any full-time allowance? (7) Considering the fact that we have been able to collect a revenue of more than Rs. 4½ crores at cheap cost, is it advisable on the part of the Government to impose so many stringent regulations on these village officers, when we are not able to pay them full-time salaries? These are the points on which I should like enlightenment."

SRI A. GAJAPATHY NAYAGAR:—"மன்றத் தலைவர் அவர்களே, கிராம முனிசிப்களும், கர்ணங்களும் கிராமங்களில் செய்யும் வேலைகளை

17th May 1954] [Sri A. Gajapathy Nayagar]

யாவரும் அறிவார்கள். அவர்களை, விசாரணை காலத்தில் வேலையிலிருந்து நிறுத்தி வைப்பதற்காக இந்த மசோதாவின் மூலம் கலெக்டருக்கு அதிகாரமளிப்பதானது நல்லதென்றே நான் கருதுகிறேன். ஏனெனில், ஒரு கலெக்டரானவர் ஒரு கர்ணம் மீது ஒரு வழக்குத் தொடுத்து, ஒரு உத்தரவு பிரகாரம் அவரை ஒரு குறிப்பிட்ட குற்றத்திற்காக குறிப்பிட்ட காலத்திற்கு நீக்கிவைத்தால், கணக்குப் புத்தகங்களையும், மற்ற ரிகார்டுகளையும் யாரிடமும் கொடுக்காமல் தானே வைத்துக்கொண்டு குறிப்பிட்ட காலம்வரை கிராம வேலை சரியாக நடக்க முடியாதபடி செய்து விடுகிறார்கள். ஆனால், தற்காலீகமாக அவரை நீக்கவேண்டும். அதாவது வேலையிலிருந்து 'ஸஸ்பெண்டு' பண்ணவேண்டுமென்று சொன்னால், உடனே ரிகார்டுகள் எல்லாவற்றையும் கொடுக்கவேண்டியதாய் விடும். அப்பொழுது வேலை நியாயமாக நடக்கும். ஆகையினால், கர்ணங்களை விசாரணைக் காலத்தில் வேலையிலிருந்து "ஸஸ்பெண்டு" செய்து வைப்பதற்கு அதிகாரம் இல்லாவிட்டால், விசாரணைக் காலத்தில் அன்றும் கிராமங்களில் நடைபெறவேண்டிய வேலைகளை அவர்கள் தடை செய்யக்கூடும்.

"தற்காலிகமாக நீக்குதல் ஒருவிதமான தீர்ப்பு ஆகாது. ஒரு குற்றம் சாட்டி, அந்தக் குற்றத்தை விசாரித்து, 'உன்னை நான் "ஸஸ்பெண்டு" பண்ணுகின்றேன்", என்று நீக்கினால்தான் அது தீர்ப்பாகும். இடையே ஒரு உத்தரவு போட்டால் அது தீர்ப்பு ஆகாது. தற்காலீக உத்தரவா இருந்தால், அந்தக் குற்றமாகவோ அல்லது தீர்ப்பாகவோ கொள்ள முடியாது. ஆகையால், இம்மாதிரி தற்காலீகமாக ஸஸ்பெண்டு செய்வது தீர்ப்பு அல்ல. அது சாதாரண உத்தரவு ஆகும். அம்மாதிரி உத்தரவு போடுவது நியாயம் என்று சொல்லிக்கொண்டு, இந்த மசோதாவை நான் வரவேற்கின்றேன்."

* THE HON. SRI M. A. MANICKAVELU NAICKER :—"Sir, as regards the status of the village officers, I may say that it partakes of the nature of full-time service for some purposes and for certain other purposes village officers are not considered full-time servants. This is the existing practice. When we begin to reform the whole question of village offices, I will take the valuable advice of the hon. Member.

"The hon. Member Sri Balasubramanya Ayyar said that there was no necessity for this Bill, and provision for punishment pending enquiry was there already. I say, Sir, it is not there already. The Act expressly gives powers to impose penalties on village officers only after enquiries are made. Now, before we make an enquiry and punish the person or acquit him, we cannot keep the person under suspension. In every department when a serious offence is committed, the officer concerned has to be suspended. Having him in office, we cannot make a proper enquiry. Therefore there is need for suspending him pending enquiry. That is sought to be done by this Bill. If any trouble should arise, Dr. John will say, 'Why did not the Government bring in a small Bill; we could have passed it in five minutes.' Now hon. Members opposite say, 'where is the necessity for this Bill'. I cannot allow difficulties to arise. I do not know why the hon. Member Sri Balasubramanya Ayyar should concentrate so much attention on this Bill, when he has yielded on many other important matters. I would request hon. Members to pass this Bill."

[17th May 1954]

MR. CHAIRMAN :—" The question is—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried.

The clause by clause consideration of the Bill was then taken up.

Clauses 2, 3, 4 and 1 and the Preamble were put and carried.

* THE HON. SRI M. A. MANICKAVELU NAICKER :—" Sir, I beg to move—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law."

MR. CHAIRMAN :—" Motion moved—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law.' "

* SRI M. P. GOVINDA MENON :—" Sir, in answer to the points raised by the hon. Member Sri G. Krishnamurthi, the Hon. Minister said that the whole system of hereditary village officers would be reformed. In this connexion I am forced to say this. The hereditary system obtaining at present must cease. If a person happens to be a village officer, his son automatically becomes the village officer. Therefore these village offices are held by a particular set of people. In considering measures of reform, the question of abolishing the hereditary system of village officers must be taken up."

MR. CHAIRMAN :—" The question is—

"That the Madras Proprietary Estates' Village Service and Hereditary Village Offices (Amendment) Bill, 1954 (L.A. Bill No. 22 of 1954), as passed by the Assembly, be passed into law.' "

The motion was carried and the Bill was passed into law.

(3) THE MADRAS ELECTRICITY UNDERTAKINGS (ACQUISITION)
BILL, 1954 (L.A. BILL NO. 23 OF 1954).

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—" Mr. Chairman, Sir, I beg to move—

"That the Madras Electricity Undertakings (Acquisition) Bill", 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.'

17th May 1954] [Raja Sri Shanmuga Rajeswara Sethupathi]

Sir, in moving this Bill I would like to state briefly the necessity for this measure. The need for the legislation has been explained in the Statement of Objects and Reasons published along with the Bill. The Madras Electricity Supply Undertakings Acquisition Act, 1949, was passed by the Provincial Legislature after mature consideration and was brought into force on the 24th January 1950. For the reasons explained in the Statement of Objects and Reasons, the Supreme Court has held that the Act was *ultra vires* of the Provincial Legislature.

“ In the Governor's Address to the joint session of the Legislature in February last and in the Finance Minister's speech introducing the Budget for 1954-55, reference was made to the intention of Government to re-enact suitably the provisions of the impugned Act. The reasons which weighed with the Provincial Legislature for passing the Act in 1949 still hold good. Since the coming into force of the impugned Act, the Government of Madras acquired under the Act, a number of local authority and private electrical undertakings of which 20 local authority and 3 private undertakings are now in the present Madras State. These acquired undertakings have long since been integrated into the concerned power systems of the Government Electricity department and the staff belonging to them have also been merged in suitable service cadres under the departmental set-up. Hon. Members would have readily appreciated the difficult legal position in regard to the electrical undertakings so far acquired by Government and I need not dwell at length on that point. To be brief, the position is that the Government are faced with the possibility of suits being instituted against them for liability to pay compensation for acts which may now be deemed to be illegal or wrongful. The payment of compensation by the Government for the consequences arising from such acts may also be enforced through courts of law. The ambit of the expression ‘consequences’ may give rise to almost insoluble problems.

“ Hon. Members will agree that it might be very embarrassing to leave things as they are and face a crop of litigation and also exorbitant demands in respect of undertakings already taken over and for damages for loss of profits for winding up managing agencies, etc.

“ The sections of the impugned Act and the corresponding provisions of the Bill have been printed in parallel columns and circulated to hon. Members for convenience of reference. The changes made in the Bill as compared to the provisions in the impugned Act have been indicated in italics. The reasons for important changes have also been indicated in a separate column. Except those provisions of the 1949 Act which have been held by the Madras High Court to be invalid, namely, provisions relating to the appointment of accredited representative by the Government and the basis for determination of compensation for local authority undertakings, and a very few other modifications to the Act which have been found essential in the application of

3-20
p.m.

[Raja Sri Shanmuga Rajeswara Sethupathi] [17th May 1954]

the Act and which would be essential for purposes of validation of the proceedings already taken by the Government in respect of undertakings already acquired under that Act, the Bill before the House incorporates precisely the same provisions as in the impugned Act passed by this Legislature after due deliberation. No discriminatory treatment between local authority and private licensees has been made in the Bill in the matter of assessment of compensation, etc. No doubt there is some extra financial commitment to Government on account of the deletion of the discriminatory treatment, but the money goes to local bodies. I may mention in this connexion that long before the appeals to the Supreme Court were heard by that Court and the 1949 Act was declared void by it, the Government had decided and the approval of the Legislature had also been obtained, to make an *ex-gratia* payment amounting to about Rs. 16 lakhs to the local authorities over and above the compensation already paid for or was payable for their undertakings under the provisions of the 1949 Act. And this *ex-gratia* payment would have been disbursed already but for certain local authorities having taken up the matter to the High Court. The net extra commitment is expected to be about Rs. 45 lakhs and it will not be difficult to provide this amount as and when necessary.

"I would request the hon. Members of the House to pass this Bill."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.'

* DR. V. K. JOHN :—" Mr. Chairman, Sir, I must compliment the Hon. Minister, who moved the motion, on printing the provisions of the 1949 Act side by side with the provisions of the proposed Bill and also on pointing out the reasons for the changes. So far, he has done very well. Normally I would have moved that this Bill be referred to a Select Committee under rule 109 of the Council Rules, but the proceedings in this House have now become—I say this with due respect of everybody concerned—a *post-mortem* examination of the Bill passed by the Assembly. Rule 109 and other rules which provide for amendment of Bills by this House have all become a dead letter. One might regard, Sir, that you are presiding over a House where up to this time the Government with their majority never allowed an amendment and never referred any matter to a Select Committee.

"This, in my opinion, is a very important Bill and should have been referred to a Select Committee. The Government apparently made a very serious mistake in passing a Bill into an Act in 1949 which had no legal sanction behind it whatsoever.

17th May 1954]

[Dr. V. K. John]

Apparently the Government had no competent legal advisers to assist them. Could any Government introduce and enact a measure which under the law they could not introduce and pass into law? That was a great discredit to any Government which had a Legal department and also some legal advisers. What really happened was, a very important Bill was passed into law in 1949 and lakhs and lakhs of rupees were spent in acquiring the undertakings. Later on the enactment was found to be *ultra vires* of this Legislature. Then, what is the position to-day? Are the Government sure that they are now quite competent to introduce this Bill? I do not want to go into technicalities of the provisions of the Bill in this House and argue at length as I would in a court of law that this Legislature has no jurisdiction. However, I would like to mention one or two facts with regard to the provisions of this Bill.

“ Sir, Article 248 of the Constitution of India provides that Parliament has exclusive power to make any law with reference to any matter not enumerated in the Concurrent list or State list. Three lists are given in the Seventh Schedule to the Constitution. One is the Union list. The second is the State list. The third is the Concurrent list. This Article 248 of the Constitution assumes that there are other subjects beyond those mentioned in the three lists. Certainly there are subjects beyond those mentioned in the three lists. If there are any such subjects they come under the powers of the Union Parliament.

“ Now, this decision of the Supreme Court is reported in the Madras Law Journal, and that explains the position in these words: ‘ There was no entry in any of the three lists relating to compulsory acquisition of any commercial or industrial undertaking, although section 299 of the Act clearly contemplates a law authorizing compulsory acquisition for public purposes of a commercial or an industrial undertaking. The acquisition of a commercial or an industrial undertaking not being the subject-matter of any entry in any of the three lists, neither the Federal Legislature nor the Provincial Legislature can enact a law with respect to compulsory acquisition of a commercial or industrial undertaking’. Now there is no mention in any of these three lists which refer to the acquisition of commercial or industrial undertakings. No doubt item 36 in the State list (Schedule VII to the Constitution) refers to property but not to commercial or industrial undertakings as explained by the Supreme Court. Can the Government interpret the word ‘ property ’—they do not use even the word ‘ property ’—as including a commercial undertaking? (Interruption.) The Government presume that they can put that interpretation. I say the Government have jurisdiction only if that is specifically mentioned in list No. II, which is the State list. If it is not specifically mentioned, the Government are governed by Article 248 according to which this must go before the Union Legislature. I ask, have the Government obtained in writing an opinion from any competent legal authority

[Dr. V. K. John]

[17th May 1954]

that the word 'property' can be interpreted as meaning 'commercial and industrial undertakings'? I say, it does not mean that. Even the Constitution makes a distinction between the two, and this will be evident on a reading of Article 31 (2) which says: 'No property, movable or immovable, including any interest in, or in any company owning, any commercial or industrial undertaking, shall be taken possession of or acquired for public purposes under any law . . .', etc. When the Article of the Constitution itself uses the words 'including commercial or industrial undertaking', it shows that the word 'property' cannot include 'commercial or industrial undertakings'. The Government took the risk of interpreting the word 'property' to include 'commercial or industrial undertaking' and without competent legal advice passed an enactment in 1949 and spent lakhs and lakhs of rupees on the acquisition of these undertakings. In 1954 the Government have been told that they did it without jurisdiction.

3-30
p.m.

"There is an Article in the Constitution which assumes that there may be items which are not covered by any of the three lists in Schedule VII, namely, the Union List, the State list and the Concurrent list. Otherwise, what is the reason for having included Article 248 in the Constitution? The Supreme Court has said that the Government did not have this power to acquire commercial and industrial undertakings, at the time the original Act was passed under any of the Legislative lists of the Government of India Act, 1935, and that to-day this power is not mentioned in any of the lists of the Seventh Schedule to the Constitution of India. Therefore, are we not taking a very great legal risk in having this measure passed into law without sufficient examination? In the other House the Government were asked to refer this Bill to a Select Committee but they would not do it. The Government want an important legislation involving lakhs of rupees and also property belonging to individuals and to local bodies to be rushed through and passed into an Act. Perhaps, five years later, when a new Ministry is in office, the Supreme Court of India will say that the Government have not looked into their previous decision. They have specifically used the words 'There was no entry in any of the three lists relating to compulsory acquisition of any commercial or industrial undertaking'. Although clause (2) of Article 31 of the Constitution contemplates a law for authorizing the compulsory acquisition for public purposes of any commercial or industrial undertaking, the Supreme Court has clearly stated that there is nothing in any of the three lists of Schedule VII which relates to acquisition of property. They have particularly used the words 'there is not in the list an item which refers to industrial or commercial undertakings'. Therefore, it is doubtful whether you have the jurisdiction to introduce and pass this legislation. Article 248 (1) of the Constitution says that 'Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent list or State list'. You have therefore undertaken a legislation which may be *ultra vires* of this Legislature. You ought to have

17th May 1954]

[Dr. V. K. John]

by way of abundant caution asked Parliament to pass this law. Under Article 248 Parliament has got exclusive power to make any law with respect to any matter not enumerated in the Concurrent list or the State list. When there is this provision in our Constitution why should we take a risk? I need not go to the extent of saying that this is *ultra vires* of this Legislature but it is certainly risky in the face of the wording used by the Supreme Court in its judgment. You should have asked Parliament to enact this legislation, and Parliament would surely have come to your help because you have already spent lakhs and lakhs of rupees in acquiring these undertakings.

“ Sir, a request was made in the other House to have this Bill referred to a Select Committee but the Government rushed through this measure and it was passed. I find that on every occasion after this Legislative Council was constituted under the Constitution, without any exception whatsoever, we are treating every discussion here as a post-mortem examination of Bills passed by the other House. Has not Parliament intended that this House should have power to refer Bills to Select Committees and is it not intended that this House can bring in any amendments to Bills passed by the other House? But, however good the amendments may be, you will not accept them and it also ill becomes the dignity of the Opposition to bring in amendments which they know very well will never be accepted. In fact, my hon. Friend, Sri M. P. Govinda Menon, speaking on some other Bill made a reference to-day to this kind of feeling, particularly among Members not belonging to the Congress Party, that this House was not fulfilling a useful function and could do nothing at all here.

“ Coming to the Bill under reference, you are taking a very grave risk similar to that which you took in 1949. You should not have taken it. Even now it is not too late. You can refer this Bill not only to your legal advisers but to the legal advisers of the Government of India and other competent men and get a written opinion that this is within the competence of this Legislature. I am sure everybody will say “Even though it is not absolutely certain that you have no power, it is a risky matter and you need not undertake it and invest any money in pursuance of this legislation.” I therefore submit to the Hon. the Minister for Public Works and the Government not to rush through this legislation without previous consultation and without previously obtaining competent legal opinion. You should not take a very great risk in this matter.

“ Having said this, I may point out that in 1949 when this Act was passed the idea was that there must be a plan for nationalising everything and the money required for it must also be found. The idea of nationalisation was prominent in those days. The bus transport in the City was nationalised. Did you give any benefit to the public on account of this nationalisation? You

[Dr. V. K. John]

[17th May 1954]

never reduced the fares and when you wanted to nationalise the electrical undertakings your idea was to find jobs for your own men."

SRI M. P. GOVINDA MENON :—" Mr. Chairman, Sir, the Hon. the Deputy Leader of the Opposition, Dr. V. K. John, is always addressing you as if you are responsible for all the misdeeds of the Government."

* DR. V. K. JOHN :—" I must address the Chair and the procedure is that I must address the House only through the Chair."

MR. CHAIRMAN :—" I think the Hon. the Deputy Leader of the Opposition knows the procedure well."

* DR. V. K. JOHN :—" Sir, what is this nationalisation for? It is not meant to benefit the public. The Government say the local bodies have not got a lot of funds to undertake the supply of electricity to people. Why should not the Government help them with the funds required? Again they say the private companies have not got adequate funds and therefore they are acquiring them. The lack of funds is not at all the reason. The Government acquired them because in those days they thought that everything ought to be nationalised. But, how did the Congress Government nationalise the bus transport industry and the electrical undertakings? They did not pay the market value and the people had to go to Courts. One great principle which any civilised Government ought to follow in acquiring other people's property is to give the market value which should be settled by judicial authorities. As provided for in the Land Acquisition Act the Government should also give a solatium of 15 per cent if the acquisition is compulsory. But, have the Government ever followed this principle? In every case where they have tried to acquire land, or other property or other undertakings they have never paid the market value to these people. What has been the result of this attitude? From that time people are fighting shy of investing any money on any business. If there is anything that has frightened the investors and the adventurous people, who venture to start new undertakings, it is the fear that if that undertaking is partly or wholly successful the Government will step in and nationalise that undertaking and would not pay them the market value, let alone the solatium. Is it just and proper that the Government should do so?"

3-40
p.m. " This is the way in which the Government have progressed, and it was in this manner that they passed the 1949 Act. The Government start with the idea of nationalising everything. If they want to acquire these undertakings, let them pay proper compensation, namely, the full market value of the property and a solatium of 15 per cent. When settling the principles of compensation, the Government should see that they do not expropriate private property. I say that the provisions in this Act in

17th May 1954]

[Dr. V. K. John]

regard to payment of compensation, that is, the payment of market value and solatium, should be condemned and condemned very strongly. By the 1949 Act and by this Bill the Government are to-day preventing private enterprise and even an enterprise by local bodies. I do not see how local bodies cannot carry on these undertakings. It is the responsibility of the Government to provide cheaper electricity even to those living in the rural parts. But what have this Government done? Are we having cheaper electricity in our State like Mysore and Travancore-Cochin States? No, not at all. Have the people been benefited in any way by the Government acquiring these undertakings under the 1949 Act? Have they extended the facilities or have they made electricity cheaper? The Government should see to it that some benefit is conferred on the public. Another thing I was to bring to the notice of the Government is that whenever they invest lakhs and crores of rupees on undertakings like this, they must have a sinking fund because the machinery will last only for 30 or 40 years. They must provide for an adequate sinking fund and they must have proper return from the investment."

THE HON. SRI C. SUBRAMANIAM :—" We are already having a sinking fund."

* DR. V. K. JOHN :—" That sinking fund is not worth mentioning at all."

THE HON. SRI C. SUBRAMANIAM :—" There is a depreciation fund for electricity undertakings."

* DR. V. K. JOHN :—" Clause 24 declares valid all acts or things done previously. Have the Government consulted any legal authority as to whether they could legalize all those things done under an illegal Act? I am not saying that the Government could not but they must take legal opinion in the matter. I cannot support this Bill because I think it is a very risky measure for this Legislature to pass, and the Government have not looked into it whether they have still got the jurisdiction to enact this measure. I am sorry I have to repeat that the Government have not referred such an important measure to a Select Committee either of this House or the other House."

SRI MOHAMED RAZA KHAN :—" Mr. Chairman, Sir, the legal aspect of the whole question has been dealt with by the Deputy Leader of the Opposition and I think it is for the Hon. Minister concerned or for the Hon. the Finance Minister to reply. I do not like to go into it. But the fact remains that in the year 1949 there was general agreement in the House on the principle of nationalisation of the electrical undertakings. I know that the then Minister for Public Works, who had earned so much reputation, did his best to pilot this Bill. If I remember aright, it was pointed out to the then Minister for Public Works that the provision for the appointment of some nominee of the firms in case they do not agree and also the provision for

[Sri Mohmed Raza Khan] [17th May 1954]

paying something more to the local board undertakings were likely to be held *ultra vires* by the High Court. Here I am not trying to exploit this point against the Government. Even with the best of intentions, we may sometimes miss a particular point. But it would not be good if the Acts that we pass here are declared invalid by the High Court or the Supreme Court and adverse decision are given. Therefore, before passing any legislation, the Government would do well to consider all the aspects by referring the Bill to a Select Committee either of this House or of the other House. The Deputy Leader of the Opposition said that the Government should have referred this Bill to a Select Committee. After all this is an Amending Bill. The original Bill was passed in the year 1949 and the very purpose of this Amending Bill is only to meet the various points raised by the decision of the High Court and the Supreme Court. I feel that whenever there is a major Bill of this kind, it is much better to refer it to a Select Committee. In the past, it has been the policy of the Government to refer important Bills to Select Committees. Most probably, in this Session, owing to the hot summer, the Ministers are in a mood to finish their work and disperse themselves. Otherwise they would have referred one or two Bills to Select Committees.

“With regard to payment of compensation, I do not like to argue much. I would say for the information of the Deputy Leader of the Opposition that at the time when the Bill was before the Legislature in 1949, the persons concerned expressed a great deal of satisfaction with regard to the provisions in respect of compensation. After our bitter experience in the matter of awarding compensation to the Zamindars, we even thought that the Government would adopt the same policy. But hon. Members who knew the subject and who were themselves concerned in the matter and people outside said that they had no cause for grievance. The Government had done well; more than we expected. Even one or two representatives of this House . . .”

(At this stage the hon. Member Sri A. Gajapathy Nayagar was found passing between the speaker and the Chair.)

MR. CHAIRMAN :—“Order, order. The hon. Member should not cross between the speaker and the Chair. I have drawn the attention of the hon. Members to this matter many times previously.”

SRI MOHAMED RAZA KHAN :—“Now, coming to the subject, even one or two representatives of this House—I could even mention their names—had said that they had no cause for complaint. I therefore do not wish to pursue this point any further.

“I shall refer to one or two aspects—they are about the policy and not about the clauses of the Bill. There seems to be a good deal of opposition from local authorities, at least from such of the municipalities or local bodies as are running the undertakings efficiently. They feel that they will stand to lose a great deal if

17th May 1954] [Sri Mohamed Raza Khan]

the undertakings are acquired by the Government. I request the Hon. Minister just to state the policy of the Government and what the Government feel in this matter.

“ Another thing is that there is no finality in respect of these matters. The Government simply say that they will nationalize the electrical undertakings. They have not stipulated any time-limit. They will take the undertakings according to their own convenience, according to the capacity of their staff to take over and according to their financial resources. The result will be that there will be no progress in acquisition. The complaint everywhere is that new connexions are not given. An electrical undertaking is a paying proposition as evidenced by the Budget speech. The Electricity department has done well. The Government should state that they will acquire all the undertakings within a prescribed period, say, three or four years. Finance should not be the sole consideration.

“ I say, Sir, that it is not good on the part of the Government to keep these people in suspense. Instead of there being any progress, there will be a set-back. Dr. John has rightly said that whenever the Government take over an undertaking, the results are not very happy. I may tell him that the question of electricity undertaking stands on a different footing altogether. There is a case for Government to nationalize this electricity industry. I hope better results will accrue if Government take over this industry. 3-50 p.m.

“ Sir, if we take into consideration the working of the Madras Electricity System, we will see that the establishment charges have considerably increased. If we compare the present figures with those of some four or five years before, we will see that establishment charges have gone up very high. But how far are the people benefited by this increase in establishment charges? The charge for a unit of electricity supplied is four annas, and added to this charge, there is the war surcharge which is 20 to 25 per cent of the charge for units consumed. It is nine years since the war ended. But still the war surcharge is being levied on the consumers. The Government can as well say that they charge six annas per unit instead of levying four annas per unit and charging an additional two annas or so as war surcharge. The public feel that although the Government have nationalized the electricity undertakings, still they do not have any benefit. It is very difficult for middle class people to get connexions. Electricity is not a luxury, but is a necessity. If people apply for new connexions, they are promptly informed that no new connexions could be given.

“ Then, Sir, I have to point out that bills for every month are not sent promptly and people also are not forced to pay their dues promptly. In the case of the Telephones Department, if the dues for a month are not paid, the connexion will immediately be cut off. But the Madras Electricity System goes on accumulating the dues from customers, and when charges due from any one reach the colossal figure of Rs. 300 or Rs. 400, the department

[Sri Mohamed Raza Khan]

[17th May 1954]

warns him that the connexion will be cut off. I do not understand why the department should allow so much amount to get into arrears? Why not the department take steps to recover the amounts promptly?

"Sir, there is a good deal of dissatisfaction with the way in which accounting is done by the department. Sometimes duplicate bills are received asking for payment, even though the amounts have already been paid. The amounts paid previously have not obviously been properly adjusted. Of course, these are all small points, and I hope the Hon. the Minister for Public Works will go into these. I approve of the principle of nationalizing all electrical undertakings, because it is the one department in which the Government have done very well. It is for the Government to clarify their policy in regard to the acquisition of undertakings owned by the municipalities."

* SRI V. GURUNANDAN ROW :—"Sir, I support this Bill. I am one of those who believe that public utility services like transport and electricity should be nationalized. I do not agree with the Hon. the Deputy Leader of the Opposition when he said that this Act could not be passed. That is an arguable proposition. But I should say that this Bill is perfectly valid, because, after all, we cannot take over an undertaking. We take over only the property of the undertaking. What is the undertaking as such? It is something which has no body or soul. When we take over an undertaking, it means that we really take over the property of the undertaking. Property of the undertaking is there. It is but right that private enterprise must be taken over as they are run only for profit and not for rendering service to the people. Because of the way in which these services are run by the Government, and because of the bureaucratic red-tape that is practised in the department, and also because of the inefficiency and corruption in the department, the popular feeling is against nationalization. These defects must be removed. I have got very good experience of the department. If any one wants a new connexion, it will take a lot of time for him to get it, unless perhaps he knows how to pull the ropes from behind. If any one wants to change his current from AC to DC, there is difficulty again. There is no spirit of service among the people in the department. Once the undertaking becomes a Government department, the idea of bossing over people comes in. But a business concern is there to please people, and therefore it is we get much attention from business people. Therefore I would bring it to the notice of the Government that they should have a business-like approach to the matter. Courtesy must be shown to the people. The department must be efficient. The needs and conveniences of the people must be attended to. Then alone the Government can think of making nationalization popular."

"Sir, there are certain clauses in the Bill which may give rise to litigation. In fact the judgment of the Supreme Court has necessitated the bringing in of this Bill. I have given notice of my

17th May 1954] [Sri V. Gurunandan Row]

amendment to clause 7 only to try to help the Government. The Bill was circulated to us only yesterday, and within the time available, I have given notice of some amendments. Clause 7 (1) as it stands reads as follows :—

“7. Appointment of a sole representative.—(1) Every licensee may, within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or, in the case of an undertaking taken over, within three months of the commencement of this Act, appoint an individual who may be the managing agent or a director or an officer of the licensee or any other person to act as his sole and accredited representative . . .”

That is to say, even in respect of an undertaking which the Government are taking over, they are allowing the licensee the right to appoint an accredited representative. The licensee has got the right to appoint an accredited representative within three months from the date of the coming into force of the Act. Sub-clause (3) of clause 7 says—

“(3) Nothing in the foregoing sub-sections shall be deemed to require a licensee of an undertaking taken over, who has appointed an individual as his sole and accredited representative, to make a fresh appointment after the commencement of this Act . . .”

The licensee is not required to make a fresh appointment after the commencement of the Act if he has already appointed one. I think the draftsman of the Act wants that in cases where there is already an accredited representative, that person should be considered the accredited representative and that no fresh appointment of an accredited representative should be made. I understand that this is applicable only to municipalities. It is only in cases where there is no accredited representative appointed before the commencement of this Act that one has to be appointed.

“The Government allow an undertaking taken over to appoint an accredited representative. That means Government invite litigation. Suppose an accredited representative has already been appointed for an undertaking already taken over, and now under this clause the undertaking make a fresh appointment, what are the Government going to do? This is my question. That is why. I have given notice of an amendment making it not possible for such persons now to come and say, ‘I am going to appoint an accredited representative and thereafter I am going to select whether I am going to come under basis “A”, “B” or “C”, even though all these things have been gone through in the past. This is one of the aspects of the Bill on which I wanted to say a few words. 4 p.m.

“There is another important aspect on which also I would like to say a few words. It is about those employees who have been retained in service after the undertaking was taken over by the Government. Sub-clause (2) of clause 15 says: ‘Persons whose services are retained shall be governed by such rules as the Government may, from time to time, make in regard to them’. But what is to happen to people who were working in the undertaking taken over? They should be deemed to be Government servants from the date it was taken over by the Government. There should be no break in their service. Government should make a definite

[Sri V. Gurusundaram Sastri] [17th May 1954]

statement in the Act that no employee of an undertaking taken over by Government shall lose his appointment or suffer by getting less emoluments because of such acquisition. To give effect to these objects I have given notice of amendments.

"Then, Sir, I would like to have some explanation from the Hon. Minister as to why two different types of compensations are provided in the Bill. I refer to items (a) and (b) under item (ix) of sub-clause (3) of clause 5. Sub-item (a) says: 'in case the licensee is a person licensed under Part II of the Electricity Act, at the rate specified in the licence in respect of compulsory purchase, or where no rate is specified in the licence, at fifteen per cent on the values referred to in sub-clauses (i) and (iv), at the rate of ten per cent on the value referred to in sub-clause (ii), and at the rate of five per cent on the value referred to in sub-clause (iii);' This is one type of compensation. Sub-clause (b) provides for another type of compensation and it says: 'in case the licensee is a person who has obtained sanction under section 28 of that Act to engage in the business of supplying electrical energy, at the rate of ten per cent on the values referred to in sub-clauses (i) and (iv) and at the rate of five per cent on the values referred to in sub-clauses (ii) and (iii).' I want some clarification on this point also from the Hon. the Minister in charge of the Bill.

"And the last point on which also I want clarification from the Hon. Minister is this: Part B of Schedule I says: 'For the purpose of section 5 (1), "net annual profit" in respect of any account year of a licensee being a local authority shall be (i) the amount actually appropriated; or (ii) the amount which could have been appropriated, to the general funds of the local authority on account of the undertaking for that account year in accordance with the audited accounts of the undertaking.' All that I want to say is that a local authority must not be treated in the same fashion as others. The local authorities must be paid a little better compensation because the profits made by the local authority do not go into the hands of the private people. It goes to the municipality. That means that the profit goes to the people of the municipality. Then again the municipalities do not run these undertakings with a profit motive but more or less on a service basis. If the compensation is worked out on the basis proposed, the municipalities would get less. Therefore, I suggest to the Government that in calculating the profits made by the municipalities, some other liberal method should be adopted so that more compensation is paid to these municipalities. The Schedule should be amended with this aim in view."

* SRI G. KRISHNAMURTHI :—"Mr. Chairman, Sir I do not know what nationalization means. In these days after the attainment of Independence, there is not much meaning in the demand for nationalization. In the pre-1947 days when the Britishers were running our concerns there might have been some meaning. But now, when most of the concerns are run by our own people, and the Government also are expected to be committed to a policy

17th May 1954] [Sri G. Krishnamurthi]

of encouraging private enterprise, there is not much meaning in nationalization. We know that laymen as a whole feel that they are sure to get a thing done more easily by the private company than by the Government. Great hardship is felt by a person in drawing even a few rupees due to him from the Government Treasury. It is very easy to remit money into the treasury but to get even a few rupees from the treasury is a great hardship. When such is the case with the working of the Government Treasury, I do not know how we are going to improve other facilities for the public by taking over the electricity undertakings. In theory and on paper it might sound well that the Government should be able to own all the electricity undertakings so that they might be able to provide even the remotest villages with electricity and enable the farmers there to pump out water with the aid of electric power to their fields. When it comes to practice, we find there is a lot of difficulty in approaching the Government and getting things done. So what I would request Government to do in the matter is to have something like a Government Board which is to be run completely on commercial lines and completely free from the shackles of red-tape that usually follows Government business. If the Electricity Board is manned exclusively by experts and run completely on commercial lines, then the difficulty felt by the laymen as a result of the nationalization of electricity undertakings will not be there.

“ Now, Sir, we like to have enlightenment from the Government as to how many electricity undertakings are there in the State, how many are to be taken over by the Government under this scheme, how many of them have already been taken over, how much money was paid by the Government in respect of undertakings already taken over, and how much money would be required to take over the others. If particulars regarding these are furnished to hon. Members, they will be better able to judge the position correctly. Immediately after the attainment of Swaraj, in our enthusiasm we want to have everything done by the Government and that too now itself. We want things that can be done in the course of the next two or three generations to be done now itself. I had occasion to submit to hon. Members of this House that the policy of the Government had been to tax the present generation for the benefit of the future generation. This is like the man hoarding up money without using it himself but allowing that money to be used not by his own son but by his adopted son. We know how members belonging to our future generation are behaving and are going to behave.

“ Now we want to do everything ourselves. The acquisition of so many electrical undertakings means investment of so much of capital and the Government may therefore go in for a loan tomorrow, or this Government may curtail certain items in the Budget. Some items of capital expenditure may be debited to the revenue account which in turn will mean that the present generation will have to make sacrifices. Of course, it is all for the good.

[Sri G. Krishnamurthi] [17th May 1954]

of the nation. But, is it just and fair to take over all these undertakings in the present generation itself? How many undertakings have been already taken over and, may I also ask, what are the benefits that we have reaped as a result of it? As pointed out by hon. Members who spoke earlier, by undertaking to run certain electrical undertakings in the City and elsewhere themselves, the Government have not lowered the rates for supply of electricity. What then are the benefits for the present generation? Is it not better for us to hasten slowly in regard to this matter?

“ With regard to conditions of service of the employees of the undertakings to be taken over, I find that we are going away a little from what we ought to do righteously. We say that anybody's service can be terminated by giving him three months' notice. This notice is to take effect irrespective of anything to the contrary in any contract or agreement that the person might have already entered into with the business concern that has been running the electrical undertaking. How far are we right in making such a provision? One may be a highly paid officer or a poorly paid peon and, may I ask, are these people to be at the mercy of the future Government servants who are to occupy these *gadis* simply because we make a rule that anybody's service can be terminated after giving him three months' notice? After all the intention of the Government, by nationalizing the electricity undertakings, is to provide the best possible facilities to the people in regard to the supply of electricity. Then, why should we threaten these employees who might have put in years of service that their services can be terminated on three months' notice? Are they not our own brethren? Did they not enter the service of these undertakings in the hope that their services would be required for ever? Why should we therefore make a provision in this enactment that anybody's service can be terminated after giving him three months' notice?

“ Then, what about the salaries of these employees? I know personally that there are many concerns which pay their employees more than what the State Government do. They are paying them actually at the Central Government rates. What will be the fate of these employees? Will not the State Government say that in their Electricity System, they are paying an Accountant or an Engineer only so much and that the ex-employees of the undertakings taken over should accept only those rates? Why should these employees be asked to work at some disadvantage to themselves? There should be a provision therefore that when an electricity undertaking is to be taken over, no employee would be affected by it. Such an assurance was given when the Pudukkottai State was merged with the Tiruchirappalli district of the Indian Union, viz., that no State employee would be affected to his disadvantage. Therefore nobody in an electricity undertaking should be affected in the matter of his salary, leave rules, pension, gratuities and other privileges when that undertaking is taken over.

17th May 1954] [Sri G. Krishnamurthi]

“ Then, as regards the rates charged for the supply of electricity, if the Government will bring them down or at least state that after a few months the rates charged for the supply will be reduced as a result of the nationalisation of these undertakings on a mass scale, then the public will be satisfied to a large extent. Nothing has been indicated so far in regard to this matter. Therefore, if the Hon. the Minister piloting the Bill would enlighten us on this point, before we are just asked to pass this Bill, we would be satisfied.”

* SRI K. BHASHYAM :—“ Mr. Chairman, Sir, so far as the legal difficulty raised by the Hon. the Deputy Leader of the Opposition is concerned, I would content myself by just reading a few lines from the judgment of His Lordship Sri P. Satyanarayana Rao in the appeal made to the High Court. His Lordship has discussed the law regarding the position under the Government of India Act of 1935 and under the present Constitution. His Lordship has stated : ‘ In the present Constitution the matter is made clear. The power of acquisition so far as the Union is concerned is Item 33 in List I of the Seventh Schedule—Acquisition or requisitioning of property for the purposes of the Union. Item 36 of List II of the Seventh Schedule is in regard to ‘ Acquisition or requisitioning of property except for the purposes of the Union, subject to the provisions of entry 42 of List III.’ His Lordship says that in all these items the power of acquisition is not restricted to land only nor is there any restriction on the extent of the property. Therefore every kind of property can be acquired subject of course to the provisions of the Constitution—Item 33 of List I of Schedule VII for purposes of the Union and Item 36 of List II of Schedule VII for purposes of the State and the form and the manner in which compensation will have to be paid can also be decided by the State. This exactly answers the point raised by the Hon. the Deputy Leader of the Opposition to the effect that in spite of the new provisions which have been introduced in the New Constitution there is still some inherent constitutional difficulty in the State Legislature undertaking legislation of this kind. I therefore do not think it necessary to dilate further upon this point. I think the Government are justified in proceeding with this legislation without any further delay.

“ However, I would like to refer to one point before I finish my speech. This question of nationalisation has come into prominence ever since we have attained Independence. It is certainly a matter of very great importance, but have we got all the money necessary for the purpose of nationalizing all major enterprises? I am for nationalisation but when the Government themselves are in deficit and many of their undertakings which are for the purpose of producing the necessaries of life such as irrigation projects, etc., are held up for lack of funds, I do not see any necessity or urgency for utilising the few crores of rupees that we have got on hand for the purpose of buying the electricity undertakings from private persons. It is true that electricity is a national industry and must be nationalised at some date or other. But, what is the urgency for doing it now when the budget is a deficit one, and when more

[Sri K. Bhashyam]

[17th May 1954]

urgent projects are pending execution and which are not capable of being executed now for lack of funds? It is from this point of view that I say that this question of nationalisation need not be taken up now. There must be some priority even in respect of projects which are pending before the Government for execution. However, I am glad to know that the Hon. the Minister in charge of Electricity in the previous Ministry and the present Minister for Public Works have both been careful to point out that only in cases where a private undertaking does not work properly and does not serve the public interest in as efficient a way as it ought to serve, will that undertaking be acquired by the Government. To this extent I am glad that the Government have restricted the scope of their activities and thereby spared some moneys for the purpose of carrying out the more urgent works they have on hand.

“Before I finish I would like to draw the attention of the Government and particularly that of the Hon. the Minister for Public Works who is in charge of electricity to certain facts. So far as this State is concerned, what we find after nationalisation of electricity is that the service is not much more efficient than it was before. In fact, when the private company was in charge, any call for help in respect of any difficulty or failure of lights did receive instantaneous attention and we were able to get the man on the spot within a few minutes. Now, there is some slackness and we usually get a reply that ‘so and so’ is not there or that a man would be coming in half an hour. I think the Government must look into this matter and set it right. After all we are all interested in nationalisation. If the money that goes into the pockets of the private individual goes into the pockets of the Government, the people will be benefited by this nationalisation. If we are to make this nationalisation of electricity popular we must see that the calls for help from the public are really attended to promptly and efficiently. I am making this appeal to the Hon. the Minister in charge that the service should be prompt especially when lights fail on occasions like marriages, etc., I do not think there will be any difficulty in setting this right. I make this complaint not because I want to do so but because I have experienced this difficulty myself.

(At this stage the Deputy Chairman occupied the Chair.)

4-20
P.m.

“Even as regards this Bill there have been many improvements since I last spoke on it. I do think that it requires much greater improvement than what has been done. While supporting the Bill, I wish to point out that if the policy of nationalisation is to be really popular with the people, the Government must be more careful and more efficient than they have been hitherto.”

SRI K. BALASUBRAMANYA AYYAR :—“Mr. Deputy Chairman, Sir, I also feel that there is power for our State Legislature to pass this Bill. The Supreme Court was concerned with the Lists under the Government of India Act, 1935. There the only provision under the Provincial Legislative List was for compulsory acquisition of land. That was all, and there was no

17th May 1954] [Sri K. Balasubramanya Ayyar]

other provision, and in the concurrent list there was only the word 'electricity'. Therefore, the Supreme Court held that neither the word 'electricity' nor the words 'compulsory acquisition of land' will give the power to acquire any commercial undertaking because it was not merely land. But, under the present Constitution, there is provision for acquisition or requisitioning of property and the Supreme Court has given a very wide meaning to the word 'property'. Property includes everything including goodwill. As the word 'property' is so widely construed, I think it may well be argued that the State List will include the acquisition of commercial undertakings. Let us therefore proceed on the footing that we have got the power to legislate.

"Sir, so far as nationalization is concerned, as a matter of general principle we may all agree. But all the difficulties come only in the actual working. Nationalization, according to me, should be confined to the compulsory acquisition of undertakings which do not serve the public interests properly. If there are companies which have been distributing electricity properly and if they are doing their work to the satisfaction of the public, I do not see any reason why we should compulsorily acquire such undertakings. I do not know how many undertakings there are still to be compulsorily acquired. Therefore, instead of paying compensation to all the undertakings at a time of difficulty, we shall acquire such undertakings which have not been serving the public interest well.

"So far as the general principle of nationalization is concerned, there is always the difficulty that whenever there is nationalisation there is always the difficulty that whenever there is nationalization concern. A profit-making concern sees to it that it discharges its duties to the satisfaction of its constituents, and it is popular also. In all nationalization schemes the difficulty is that so long as the profit motive is not there and the Government are not interested in earning profits, naturally there is loss of efficiency and there is lack of interest also. I would therefore request the Hon. the Minister for Public Works to see that this Bill is not made applicable to those undertakings which supply electricity properly and at reasonable rates and satisfy the public demands. It can be applied to such undertakings which are not run properly and which do not satisfy the Government. If the Hon. Minister can look to this, we shall accept this Bill."

(At this stage Mr. Chairman resumed the Chair.)

* SRI V. V. RAMASWAMI :—"கனம் தலைவர் அவர்களே, இந்த மின்சார விநியோக உரிமைகளை அரசாங்கத்தார் எடுத்துக்கொண்டதைச் சட்டப்படி செல்வாது என்று உயர்தர நீதி மன்றம் தீர்ப்பளித்த பிறகு புதிதாக ஒரு சட்டத்தை சர்க்கார் கொண்டுவந்திருக்கிறார்கள். இந்தச் சட்டத்தை நிறைவேற்றலாமா? அது சரியா? என்பதைப் பற்றி வழக்கறிஞர்கள் இரு தரப்பிலும் எடுத்துச் சொன்னபோதிலும் கூட இந்தச் சட்டம் நிறைவேற்றத்தான் போகின்றது. ஏனெனில், அமுலில் இருக்கும் அரசியலமைப்பின் படி மேல் சபை என்று ஒரு சபை இவ்விடத்தில் இருக்கின்றபடியினால்தான் இந்த மசோதா இங்கு கொண்டுவரப்பட்டிருக்கிறதே தவிர, மற்றபடி கீழ்ச் சபையிலே இது நிறைவேறிவிட்டது. ஆயினும், இங்கு ஒரு வாய்ப்பு கிடைத்திருக்கிறபடியினால் இந்த மசோதாவிலுள்ள குற்றங்களையோ

[Sri V. V. Ramaswami] [17th May 1954]

குறைகளையோ எடுத்துச் சொல்லக் கடமை யுள்ளவர்கள் என்ற முறையில் நாங்கள் எடுத்துச் சொல்லுகிறோம். அவைகளில் இருக்கின்ற குறைகளை அரசாங்கத்தார் கவனித்து, திருத்தங்களை எடுத்துக்கொண்டு அதற்கு ஆவன செய்வார்கள் என்று நினைக்கின்றேன்.

“இந்த மின்சார விநியோக உரிமைகளை அரசாங்கத்தார் எடுத்துக் கொள்ளப்போவதாக தெரிவித்த காலத்திலிருந்தே பலத்த எதிர்ப்பு இருந்து வந்திருக்கின்றது. தனி நபராக இந்த விநியோக உரிமைகளை வைத்திருந்தவர்கள் அல்லது கூட்டாக வைத்திருந்தவர்கள் இதைப் பலமாக எதிர்த்தார்கள். அவர்கள் தந்நலம் லாபம் இவைகளை கருதி என்று மக்கள் மனதிலே பதியும்படி அரசாங்கத்தார் பதில் சொல்லிக்கொண்டு வந்தார்கள். ஆனால், நகராட்சி மன்றங்களும், ஸ்தல ஸ்தாபனங்களும் மக்களுடைய நலன்களைக் கவனிப்பதற்கும், உரிமைகளைப் பாதுகாப்பதற்கும் கடமைப்பட்டிருக்கின்றன. மக்களுக்குக் கடமைப் பட்டிருக்கின்ற நகர ஆட்சி மன்றங்களைச் சேர்ந்தவர்களே எதிர்த்தபோது, நல்ல ஈடு கொடுப்போம் என்று அவர்களுக்குத் திருப்தியளித்து இந்தச் சட்டத்தை முன்பு நிறைவேற்றினார்கள்.

“ஆயினும், அந்தக் காலத்திலே நகராட்சி மன்றத்தினர்கள் அனைவரும் ஒன்று கூடி ஒருமுகமாக எதிர்த்திருந்தார்களானால், அவர்கள் சொல்லக் கூடிய நியாயத்தை சரியாக உணர்ந்து, மின்சார விநியோக உரிமைகளை நகராட்சி மன்றங்களிலிருந்து அரசாங்கம் நீக்கியிருக்கமாட்டார்கள். இந்த மசோதாவிலிருந்து நகராட்சி மன்றங்களை நீக்கியிருப்பார்கள். ஆனால், துரதிர்ஷ்ட வசமாக அந்த நகராட்சி மன்றங்களிலே பெரும்பாலும் செல்வாக்குள்ளவர்களும், பொறுப்பை உணர்ந்து அரசாங்கத்திற்குச் சொல்லக்கூடிய உரிமை உள்ளவர்களும் நகரசபையிலுள்ள வர்களெல்லாம் ஆளும் கட்சியைச் சேர்ந்தவர்களாயிருந்தபடியால், தங்கள் உரிமைகளை ஒரவாறு மனச்சாட்சி சொன்னபோதிலும்கூட, அரசாங்கத்தார் கொண்வந்த தீர்மானத்தை ஆதரிக்கும் நிலைமையில் கைவிட்டுவிட்டார்கள் என்று சொல்லவேண்டியிருக்கிறது. ஆயினும், இப்பொழுது நகராட்சி மன்றங்களிலே இருக்கின்றவர்கள் ஏன் இதை ஆதரிக்க மறுக்கிறார்களென்றால், ஒவ்வொரு நகரசபைக்கும் வருமானம் வரக்கூடிய வழிகள் எத்தனையோ இருப்பதாகச் சொல்லியபோதிலும்கூட, முக்கியமானதும், பெரிதும் கவனமாக நகராட்சி மன்றங்களாலே போற்றி செம்மையாக நிர்வகிக்கப்பட்டு வந்ததும், இந்த மின்சார விநியோக முறை ஒன்றுதான்.

“ஸ்தல சுயாட்சி இலாகாவிலே ஒவ்வொரு நகராட்சி மன்றத்தினுடைய நிர்வாகத்தை பரிசீலித்து வெளியிடும் அறிக்கையிலே, ‘உங்கள் வருமானத்தைப் பெருக்கவேண்டும்; வருமான இனங்களைப் பெருக்கவேண்டும்’, என்ற முறையில் நகராட்சி மன்றங்களை இடித்துக் கூறுவார்கள்.

“நகராட்சி மன்றங்களுக்கு வருமானம் கிடைத்து வந்த இந்த மின்சார விநியோக உரிமையை அரசாங்கம் எடுத்துக்கொண்டதால், அவர்கள் மிகவும் ஏமாற்றம் அடைந்தார்கள். அரசாங்கம் இந்த உரிமையை அவர்கள் விடியிருந்து எடுத்துக்கொள்ளுவதற்குக் காரணம் சொல்லும்போது, ‘உங்க ளிடத்திலே பணம் இல்லை; சுற்றுப்புறம் இருக்கின்ற அனேக கிராமங்களில் தேவையானபடி விநியோகம் செய்வதற்கு உங்களைப் முடியாது; அரசாங்கத்தாரால்தான் முடியும்’, என்று சொல்லி எடுத்துக்கொண்ட பிறகு, அப்படி கிராமந்திரங்களுக்கு மின்சார வசதியை கொண்டுபோனார்களா என்று பார்த்தால், இல்லவே இல்லை. மின்சார வசதி விஸ்தரிக்கப்பட்டிருக்கும் கிராமங்களில்கூட, ‘நீங்கள் கடன் கொடுத்தால், மின்சார சப்ளை தருவ தற்கான வசதிகளைச் செய்து கொடுப்போம்’, என்று சொல்லக்கூடிய நிலைமை இருக்கிறது. கடன் கொடுத்தவர்களுக்குக்கூட இன்னும் திருப்தி கரமாக மின்சாரம் கிடைக்கவில்லை.

4-30
p.m.

“மேலும், மின்சார விநியோக உரிமைகள் நகராட்சி மன்றங்களிலிருந்து எடுக்கப்பட்டதால், அவைகளுடைய வருமானம் குறைந்ததோடு அல்லாமல், நகராட்சி மன்றத்தின் அன்றாட நிர்வாகத்தில் ஈடு

17th May 1954] [Sri V. V. Ramaswami]

பட்டிருக்கின்ற ஆணையாளரும், மற்ற நகரசபைத் தலைவரும், உறுப்பினர்களும் அந்தந்த நகரங்களிலுள்ள முக்கியமான பல இடங்களுக்கும் விளக்கு போடவேண்டுமென்றே ஒரு இடத்திலிருந்து மற்றொரு இடத்திற்கு மாற்ற வேண்டுமென்றே, ஆற்றலைக் கூட்டவேண்டுமென்றே நினைக்கும்போது, அந்தக் கடமையை நிறைவேற்றுவதற்கு சாத்திய மில்லாதபடி அவர்களிடமிருந்து இந்த முக்கியமான உரிமையானது எடுத்துக்கொள்ளப்பட்டுவிட்டது. ஆகையினால், ஆதிரிலிருந்து எதிர்க்கு வந்தபடி இந்த ஒரே வருமானம் இருக்கின்ற இந்த உரிமையை மீண்டும் இந்த நகராட்சி மன்றங்களுக்கு அரசாங்கம் பெருந்தன்மையுடன் கொடுக்க வேண்டும். அனேக நகராட்சி மன்றங்கள் வழக்கு தொடுத்திருந்தபோது மற்ற நகராட்சி மன்றங்கள் அப்படிச் செய்யாமல் ஏன் சும்மா இருந்தார்கள் என்றால், பணம் இல்லாதபடியினாலும் முக்கியமாக அரசாங்கத்தின் பெருந்தன்மையை முழுவதும் நம்பியதாலும் விட்டுவிட்டார்கள். தங்களுடைய உரிமைகளுக்காக வழக்குத் தொடர்ந்த நகரசபைகளுக்கு என்ன கதி ஏற்படும், என்பதைக் கவனித்து, அவர்களுக்கு இந்த உரிமையானது திருப்பிக் கிடைத்தால் தங்களுக்கும் திருப்பிக் கிடைத்துவிடும் என்ற நம்பிக்கையுடனே அரசாங்கத்தின்மீது அநேக நகராட்சி மன்றங்கள் வழக்குத் தொடராமல் விட்டார்கள். அரசாங்கத்தின்மீது வைத்த நம்பிக்கையின் காரணமாகவும், அரசாங்கத்தார் பெருந்தன்மையுடன் நடந்துகொள்ளுவார்கள் என்ற நம்பிக்கையாலும் வழக்குத் தொடராமல் இருந்ததை முன்னிப்பாவது, இந்த ஸ்தல சுயாட்சியிலே ஆழ்ந்த அனுபவமும், அனுதாபமும் கொண்ட கனம் அமைச்சர் அவர்கள் இந்த நிலையிலே இந்த மசோதாவைக் கொண்டுவந்து இந்தமாதிரி பொறுப்பை ஏற்றுக் கொள்ளவேண்டியது மிகவும் வருத்தமாக இருந்தபோதிலும், அவருடைய பரம்பரையான பெருந்தன்மைக்கு ஏற்றபடி நகராட்சி மன்றங்களின் இந்த உரிமையைத் திருப்பிக் கொடுத்துவிடவேண்டுமென்று மீண்டும் வற்புறுத்திக் கேட்டுக்கொள்ளுகின்றேன். அப்படிச் செய்யாவிட்டால், இந்தச் சட்டமே நல்ல முறையில் கொண்டுவரப்படவில்லை, அற வழியும் அல்ல என்று சொல்லி இதற்கு என்னுடைய எதிர்ப்பைத் தெரிவித்துக்கொண்டு; என்னுடைய உரையை முடித்துக்கொள்ளுகின்றேன்.”

SRI A. GAJAPATHY NAYAGAR :—“ மன்றத் தலைவர் அவர்களே, தனி மனிதன் அல்லது நகராண்மைக் கழகங்கள் மின்சார சக்தியை விநியோகிக்கக்கூடாது, மின்சார சக்தி விநியோக வேலையை அரசாங்கமே ஏற்றுக் கொள்ளவேண்டுமென்று இந்த மசோதாவின் முதல் அடியிலேயே சொல்லியிருப்பதை நான் வரவேற்கிறேன். ஏனெனில், நீதிக்கு அடுத்தாற்போல் மக்களுக்கு அத்தியாவசியமாக வேண்டியது மின்சாரம். அதாவது, சிறு சிறு குடிசைத் தொழில்களை நடத்துவதற்குக்கூட நமக்கு மின்சார சக்தி வேண்டியிருக்கிறது. நாடு முன்னேறவேண்டுமானால், அதற்கு மின்சார சக்தி அவசியம் வேண்டும். ஏனென்றால், மின்சார சக்தி இருந்தால்தான் பல கைத்தொழில்கள் விருத்தியடைவதற்கு முடியும். மின்சார விநியோக வேலையை அரசாங்கத்தார் பொறுப்புஎடுத்துக்கொண்டு நடத்தலாம் என்று இந்த மசோதா கூறுகிறது. மற்றவர்கள் இந்த வேலையைச் செய்து வந்த போது அதற்கு எப்போதும் பல காரணங்களினால் தடை ஏற்பட்டுக்கொண்டு வந்தது. நண்பர் ஸ்ரீ பாலசுப்ரமணிய அய்யர் அரசியலமைப்புச் சட்டத்தின் பிரகாரம், ‘சொத்து’ என்ற பதத்தில் இதுவும் அடங்கிவிடும் என்று சொன்னார். இந்த மசோதாவின் தொடக்கத்தில் கூறியிருப்பதாவது—

‘Whereas it is expedient in the public interests that the business and service of the generation and supply of electricity be carried on by the State of Madras to the complete exclusion of all other persons inclusive of citizens and local authorities.’

“இந்த மசோதாவிற்கு சட்டப்படி தடை இருக்கிறதென்று வாதம் செய்தார்கள். இரு தரப்பாருடைய வாதங்களையும் நான் கேட்டுக்கொண்டிருந்தேன். ஜட்ஜாக இருந்தவன் என்ற ஒரு அனுபவத்தில், ‘இந்த மசோதாவைக் கொண்டுவருவதற்கு சட்டப்படி தடை எதுவும் இல்லை’, என்று

[Sri A. Gajapathy Nayagar] [17th May 1954]

நான் சொல்லுகின்றேன். தடை இல்லாமல் இருக்கும்போது, ஏன் இந்த மசோதாவை சட்டமாக்கக்கூடாது? இதற்கு சட்டத் தடை எதுவும் இல்லை என்று நான் சொல்லுவேன்.

“இரண்டாவதாக, இப்பொழுது இதற்கு வேண்டிய பொறுப்பு எப்படி, வரி விதிக்கவேண்டிய முறை இவைகளெல்லாம் சட்ட பூர்வமாக இதில் சொல்லிவிட்டார். அப்படிச் சொல்வது நலம் என்று நினைக்கிறேன். இதற்கு ஒரு சட்டம் கொண்டுவந்து, அதற்குத் திரும்பவும் ஒரு திருத்த சட்டத்தைக் கொண்டுவர வேண்டுமானால், இது ஒழியாத சட்டமாய்விடும். சட்டபூர்வமாகச் செய்யும்போது, அது மக்களுக்கு எந்த விதத்தில் நன்மையைச் செய்யும், எப்படித் தீமை ஏற்படும், அதை எப்படிப் போக்கவேண்டும் என்று ஆராய்ந்து பார்த்து, நன்மை தீமைகளைக் கவனித்து, முடிவான தீர்ப்புக்கு வந்திருப்பதையும் நான் வரவேற்கின்றேன்.

“மூன்றாவதாக, சட்டம் செய்துவிட்டு பேச்சளவில் நிற்கக்கூடாது. நாம் வரவு செலவுத் திட்டத்தில் மின்சார சக்தி உற்பத்திக்கும் விநியோகத்திற்கும் அனேக லட்ச ரூபாய் ஒதுக்கி வைத்திருக்கின்றோம். பேச்சளவில் நிற்காமல் உடனடியாக மின்சார சக்தி உற்பத்தியைப் பெருக்க செய்ய வேண்டும். ஏனெனில் மின்சாரம் கொடுக்கும் உறுப்பினர்கள் இருக்கிறார்கள். எந்தக் கம்பனியிலே யாருக்கு ஷேர்கள் இருக்கிறதோ அவர்களுக்கு மாத்திரம் வேலை கொடுத்தும், இன்னொரு கம்பெனியில் ஷேர் இருந்தால் அவர்களுக்கு மாத்திரம் வேலை என்றும் ஒருவருக்கொருவர் ஏக சச்சரவு இருந்ததை எல்லாம் ஒழித்து, அரசியலார் ஒரு நடுநிலைமையில் செய்வது நல்லது. அப்படிச் செய்யும்போது இப்பொழுது திருந்த வேக்கவேண்டும். நீக்கக்கூடாது. இம்மாதிரி நிர்ப்பந்தம் கூடாது. எந்த வழியில் வேலை செய்தால் நலமாக இருக்குமோ அந்த வழிகளைக் கண்டுபிடித்து ஆவன செய்வார்கள் என்று அரசியலாரை நம்பி இந்த மசோதாவை நான் முழு மனதுடன் ஆதரிக்கிறேன்.”

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—“ Mr. Chairman, Sir, most of the speakers in this House, and especially Dr. John, have been expressing a very grave doubt about the legality of this measure. He has been very scathing in his criticism that even now the Government are running a grave risk in having brought forward this measure. I must confess that I am not a legal pundit. Anyhow, as a Member of this Government, we had our legal opinion. We are advised that under Article 31 (2) of the Constitution, ‘property’ includes interest in a commercial undertaking, and that can be acquired. Under Article 31 (3) the State can make laws for acquiring these undertakings. Apart from this, hon. Members who are also legally proficient—Sri V. Gurusundaraman, Sri K. Bhashyam and Sri K. Balasubramaniam—have testified to the fact that it is within the competence of this legislature to acquire such undertakings. So, as one belonging to the legislators in general, I feel that three people have expressed an opinion against one, and that, under the rule of majority even in this House, I am on very safe ground in having brought forward this measure. In the Lower House this Bill was passed, and it had now been brought before this House. Then, Sir, Dr. John went on to say something about compensation and so on. Before I reply to his objections I would quote the hon. Member Sri Raza Khan (he is not here at present) as one who has stated that, even at the time when this was enacted, many

17th May 1954] [Raja Sri Shanmuga Rejeswara Sthupathi]

of the licensees and people who had any interest in these undertakings expressed very great satisfaction with the amount of compensation that was offered. In nationalization, nothing would be possible if we do not change our attitude and if we do not change our outlook with reference to property and its values, as they existed from the Victorian days. (Interruption.) It is well within the competence of the Court to question every proceeding. This also may go to the courts."

DR. V. K. JOHN :—" If the amount of compensation, proposed to be paid, was considered to be good, why should these people go to courts? "

* THE HON. RAJA SRI SHANMUGA RAJESWARA SETHUPATHI :—" Some people went to courts for different reasons. There was no question about the amount of compensation. Perhaps Dr. John may appear on behalf of some concerns. His speech may serve as an advertisement for people to approach him for defending their claims. (Laughter). Anyway, I am not concerned with this. I am now speaking on behalf of the Government. I wanted to quote only his henchman (Mr. Raza Khan) who expressed great satisfaction with the compensation amount. He was in the last Assembly and participated in the proceedings. We are concerned now only with the rectification of certain lacunae that have been pointed out by the High Court and also by the Supreme Court. It is with that object we have brought forward this Bill. In the Lower House, Members wanted that this Bill should be referred to a select committee. I opposed that motion and told them that no useful purpose would be served by referring the Bill to a select committee. I told them that this Bill was considered in great detail before. Then they accepted and passed this measure."

" So there is no point in saying that this Bill should be referred to a Select Committee of this House. After all what is a Select Committee? All the hon. Members who took part in this discussion, the great legal pundits, will be there on the Select Committee. As I have already pointed out this Bill had been considered in very great detail by a Select Committee on which there were able lawyers, and the views expressed now were already considered by that Select Committee and the Bill was then passed by both the Houses. We are now only concerned with one or two sections in the Bill which were declared void by the High Court and we want to validate those sections.

4-40
p.m.

" Sir, the hon. Member Sri Gurunandan Rao expressed some difficulties with reference to certain clauses of the Bill. I shall deal with them when we take up the clause by clause consideration of the Bill. The hon. Member Sri G. Krishnamurthi spoke about this measure and he was pleading very strongly on behalf of the services and things like that. In all these things it would be very difficult to stick to the contract because the company might have entered into a contract with the staff and it would not be possible in all cases to respect all the conditions of the contract. However, it would

[Raja Sri Shanmuga Rajeswara Sethupathi] [17th May 1954]

be Government's aim not to disturb the arrangements wherever it is possible and to the extent possible. If we are to respect all the contracts of the concerns to be taken over then nationalization itself will not be possible. We can never make a start at any point.

"Several hon. Members including the Hon. Deputy Leader of the Opposition Dr. John spoke about the tariff and things like that. They said the tariff rates in Mysore and Travancore-Cochin were much cheaper than the tariff rates here. I would like to point out to hon. Members that there the schemes were taken up when prices of materials and cost of labour were very low. Therefore our tariff cannot be compared with the tariff in those places. In any case our tariff is cheaper than the tariff of the licensees. This is a valid point for the hon. the Deputy Leader of the Opposition to note.

"Sir, several people have been saying that the nationalization of electricity is wrong and so on and so forth. But none of them have understood the fact that none of these concerns are generating power. The entire generation of power is done by the Government and it is only the distribution that is done by these licensees. They are more or less agents, like the zamindars who were agents for collecting land revenue for the Government. We have done away with the zamindars. The same analogy holds good in this case also.

"In speaking on this measure, hon. Members were complaining against the inefficiency of the Electricity department and the difficulties experienced by people in getting service connections and all that, and so they said that popular feeling was against nationalization of electricity. I admit that it is very necessary to make the administration of the department more efficient. But I wish to point out here that it has no relevancy to the discussion of this Bill. We are only concerned now with validating certain sections of the Act consequent upon the judgment of the High Court and the Supreme Court. The question of efficiency in the administration of the department and things like that were discussed during the discussion on the Budget and they can again be discussed during the discussion on the Budget for the next year. By saying this I do not suggest that hon. Members of this House shall not have the right to express their views. What I say is that this is not the appropriate occasion. I do feel that that aspect of the matter ought to be looked into and I am sure it will be looked into. Hon. Members Sri Balasubramanya Ayyar and Sri Gajapathy Nayagar also referred to the efficiency of the department. I can assure hon. Members that the department would be managed as efficiently as possible.

"But a very valid point to note in this connection is that some of the licensees might feel that the Damocles' sword of nationalization is hanging over their heads and this will affect their enthusiasm. Licensees will not be prepared to invest their money on any large scheme because any moment the Government might step in and take away the concern. This is a very real point, and this was also

17th May 1954] [Raja Sri Shanmuga Rajeswara Sethupathi]

referred to in the other House. While speaking in the other House I gave an assurance that to start with the Government will take over only such undertakings which are inefficient and which are not serving the interests of the people concerned. As regards the others, I said, Government would draw up a long range programme, and arrange for the taking over of those undertakings in stages, that is, a certain number of undertakings would be taken up during a certain number of years and the others later. Some such workable arrangement will be made with reference to this matter. Again Government will help these undertakings by advancing loans either from the State funds or by getting loans from the Centre. The Centre has got ample provision to lend through our State to these licensees for extension of rural electrification. So we would try to fix up the programme like that so that the licensees may not feel that they are in a state of suspense and that they could not launch upon their legitimate extension programme.

“ Then, Sir, the hon. Member Sri V. V. Ramaswami said that if only these local authorities undertakings had fought in one body perhaps they would have been treated well. I may assure him that they did fight and in fact their cause was taken up by some local authorities, and the Chairmen of those local authorities belonged to our party. Let him not commit the mistake of imagining that because they belonged to the Congress Party, they did not raise their voice of protest. Only Congress people took up this. They did not keep quiet. It is they who took the matter to the Supreme Court and the decision of the Supreme Court has necessitated the bringing in of this Bill to validate certain sections of the original Act. Party affiliation is one thing and consideration of public interests is quite another thing. The hon. Member referred also to my association with the local body and said that I should be sympathetic towards these local bodies. I do not attach very much importance to this body or that body. Whatever duty that falls to me, I feel I should carry it out in the best interests of the people whom I am serving. I might have been the President of a District Board. But that does not mean that my attachments are on the one side. I am now in the Government and it is not as if whatever I do should be in favour of the local authority. Whatever I do, it is for the sake of the people. We want to serve the people. After all let me make it clear to hon. Members that the local authority is a limb of the Government. While I was moving the Electricity Demand in the other House some hon. Members of that House criticised and asked: ‘ What is the use of asking for so much money. The Government are not serving the rural public. They are not extending electricity to rural areas to enable and agriculturists to install pump sets and so on. They are only catering to the needs of the rich people in the towns such as mercury and colour lighting in marriages and other things’. I pointed out to them that this Government particularly after the previous Chief Minister took up office, passed orders raising the tariff to a very sharp level

[Raja Sri Shanmuga Rajeswara Sethupathi] [17th May 1954]

especially when the Government granted permission for gala parties and marriages and such other things. I also said in that connexion that if the rich were prepared to pay through their nose, for all these things, the amount would be utilized for rural electrification. The hon. Member Sri V. V. Ramaswami who is a supporter of the cause of the local authorities tried to make out a strong case for them. No doubt a Municipality is a public institution. Let us, however, analyse what sort of service is being rendered by them to the public. Beyond street lighting, how is the energy spent in municipalities? The energy is spent for running mills and cinemas. Electricity is used by rich men. In what way are the municipalities serving the rural population, the poor people, the peasants, I ask? Why should not Government get the profit out of these undertakings? After all it is Government that is generating the power and supplying it to municipalities. And the municipalities are there to help the people. Further they come to Government for grants for many other purposes. They are a limb of the Government.

4-50
p.m.

“That is why even here this trouble arose, namely, the differentiation in the amount of compensation payable between the local authority and the licensee. I was told by my predecessor in office that the original Act was based on the model of the nationalization plan of England. In England they took the view that the Borough Council and the Municipal Council were but limbs of the Government and they could therefore afford to pay a lesser rate of compensation to them. After all when we want to take over the electrical undertakings from municipalities, we want to extend electricity to the rural areas and to the agriculturists. Even if the municipalities make some profit out of these electricity undertakings, it is not swallowed by one individual but the profit goes to supplement the resources of the municipalities concerned. If therefore the Government resolve to acquire these municipal electricity undertakings, it cannot be made out that municipalities should be considered as being greater than the Government themselves. This kind of proposition will never stand. I ask hon. Members here whether any of them could question the validity of this statement.

“I would also earnestly request the hon. Member, Sri V. V. Ramaswami, to understand that he should, because he does not belong to the Congress Party not criticize the Government. But he should think cogently about the matter in question and then make criticisms. Though I am not a legal pundit, I feel I have explained things in a satisfactory manner.

“I would like to mention another thing in this connexion. A charge that is true is that there is no quickness in giving connexions. There are other charges also, namely, that the department is inefficient and there is corruption and so on. There is a direction from the Centre to the effect that, as is the case in England to-day, we should also set up an Electricity Board and make it work like a commercial body. As the hon. Member Sri K. Balasubramanya Ayyar said, private enterprise will be very

17th May 1954] [Raja Sri Shanmuga Rajeswara Sethupathi]

efficient. I would like to point out that the difference between Government management and private enterprise is the difference between an elephant moving and a small dog running away. Government can never be as efficient as private enterprise because in private enterprise there is the profit motive behind it. Private enterprise has to keep its customers satisfied. But in Government management, there is always the red-tape. A man feels he is safer and he is not hard put to go down and do things. These are practical difficulties which I do admit. Electricity is no doubt a commercial enterprise and the Central Government have recognized this fact and have hinted to us to form the Electricity Board which is for the purpose of running the enterprise on a commercial basis. This question is awaiting decision at the hands of the Government. What we are waiting for is to have our very big schemes like the Kundah Project, which is to be constructed at a cost of about Rs. 28 to Rs. 30 crores, capable of generating 1,45,000 k.w.s., the Periyar and several other hydro-electric schemes completed and brought into the State grid when we can launch upon this Electricity Board. By its very nature, the Electricity Board when set up, would answer and satisfy all the points which the hon. Member Sri G. Krishnamurthi raised on the floor of this House. All these things are there and the Government are not trying to take the money of the poor people for their personal benefit. If the Government take money in one form or other through many of the taxation measures which have been criticized, it goes back to the people in some form or other. Some of the defects like inefficiency and over-crowding of the staff, etc., would disappear in no time. They cannot persist for any length of time. I think I have in a way completely satisfied hon. Members who have made very constructive and enlightening criticisms on the floor of this House. I would therefore request them to consider this Bill favourably and pass it."

MR. CHAIRMAN :—" The question is—

' That the Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954), as passed by the Assembly, be taken into consideration.' "

The motion was carried.

MR. CHAIRMAN :—" The House will now adjourn and meet again tomorrow at 2-30 p.m."

The House then adjourned to meet again at 2-30 p.m. on Tuesday, the 18th May 1954.

VI.—PAPER LAID ON THE TABLE OF THE HOUSE.

Bill passed by the Assembly and received therefrom in the Council—

a The Madras Electricity Undertakings (Acquisition) Bill, 1954 (L.A. Bill No. 23 of 1954).

a Circulated on 15th May 1954.

APPENDIX I.

[Vide answer to unstarred question No. 4 asked by Sri T. Purushotham at the meeting of the Legislative Council held on 17th May 1954, pages 146 supra.]

LIST.

Constitution and Purpose of Advisory Committees functioning under the Chairmanship of the District Collectors.

Serial number and name of the Advisory Committee.	Constitution of the committee.	Purpose of the committee.	Particulars about Taluk Advisory Committees.	Remarks.
(1)	(2)	(3)	(4)	(5)
1 Half-yearly District Irrigation Conference.	Chairman. District Collector. Secretary and Convenor. Executive Engineer concerned. The Conference should be attended by Revenue Divisional Officers, Subdivisional Officers (Public Works Department), District Agricultural Officers, M.L.As. and M.L.Cs. of the district (if they are willing) and six representatives of the ryots selected from different areas in the district or division as the case may be, by the Collector in consultation with the M.L.As., M.L.Cs. and Executive Engineers concerned and after obtaining Government's approval.	The Conference will consider the grievances of ryots in regard to irrigation matters generally and any other matter referred to it and make specific recommendations. Generally the Conference will deal with matters of general policy relating to irrigation and drainage. Another purpose of the conference is to afford opportunity of consultation between officers and ryots as regards irrigation matters.	There are no Taluk Advisory Committees for different purposes relating to irrigation.	The non-official members (i.e.), M.L.As., M.L.Cs. and six representatives of ryots attending the Conference will be eligible for travelling allowance at the rates admissible to the members of II Class committees. The District Conference should be held twice a year in February and August subject to such modification in the date and month as may be found necessary in individual cases. In districts, where there are two or more Executive Engineers (e.g., Tanjore), two conferences a year should be held for each of the Public Works Department Divisions. When one Executive Engineer looks after more than one district (e.g., West Coast Division) two conferences a year should be held in each of the districts.

[17th May 1954]

2 Advisory Committees for all the District Headquarters Hospitals.

Composition of the Committee.

- (1) The Collector (President).
- (2) The President, District Board (when a non-official).
- (3) The District Medical Officer.
- (4) The Executive Engineer.
- (5) The Chairman, Municipal Council, in the case of municipal towns, when a non-official.
- (6) A second representative of the municipal council.
- (7) A second representative of the district board.
- (8) A non-official who is a member of the Madras Legislative Assembly or the Madras Legislative Council representing the area in question or a public-spirited person, preferably a lady, representing a Congress Committee or Public Welfare Committee, Organization or body nominated by the Government.
- (9) A non-official preferably a lady, being a public-spirited person representing a Medical Association or a member of the independent medical profession, nominated by the Government.
- (10) Four other non-official members nominated by the Government.

- (11) Do.
- (12) Do.
- (13) Do.

Advisory Committees are constituted in order to keep the Director of Medical Services and the Government informed of the needs of the hospitals as viewed by the public. The committee is an advisory body. It has no executive functions to do.

There are Advisory Committees at all Taluk Headquarters where there are Government hospitals.

Advisory Committees have been constituted for all the Government Hospitals in the City for all the District Headquarters Hospitals in the mufassal and for the Government Hospitals at Divisional Centres.

17th May 1954]

Serial number and
name of the Advisory
Committee.

Constitution of the committee.

Purpose of the committee.

Particulars about
Taluk Advisory
Committees.

Remarks.

(1)

(2)

(3)

(4)

(5)

3 District Planning
Boards in the
districts of
Tiruchirappalli,
North Arcot,
Salem,
Tanjore, the
Nilgiris and
Ramanatha-
pura where
Community
Projects are
not worked.

- Chairman.*
(1) District Collector.
Members.
(2) Executive Engineers for Irrigation, Highways and Electricity.
(3) District Agricultural Officer.
(4) District Veterinary Officer.
(5) Deputy Registrar of Co-operative Societies.
(6) Assistant Director of Industries and Commerce.
(7) Block Development Officers (National Extension Service).
(8) Personal Assistant to the Special Officer of District Board.
(9) President, District Board.
(10) Chairmen of all Municipal Councils.
(11) All Members of Parliament and Members of Council of States and State Legislatures in the District.
(12) Assistant Engineer (Food Production).

Secretary.

- (13) Revenue Divisional Officer at Headquarters.

These Boards will prepare plans for their respective areas, watch the progress of execution, assess the achievements periodically and take such action as is called for in the circumstances to realise the full benefits within the targetted dates. They will also discuss and recommend new beneficial schemes. These Boards are constituted so as to secure the maximum co-operation and co-ordination of activities of all the Officials of the Departments in the district.

There are no similar Taluk Advisory Committees.

....

4 Executive Committees of the District Planning Boards.

Chairman.

- (1) District Collector.
- Members.*
- (2) Executive Engineers for Irrigation, Highways and Electricity.
- (3) District Veterinary Officer.
- (4) District Agricultural Officer.
- (5) Deputy Registrar of Co-operative Societies.
- (6) Assistant Director of Industries and Commerce.
- (7) Personal Assistant to the Special Officer, District Board.
- (8) President, District Board.
- (9) Four non-officials.

Secretary.

- (10) Revenue Divisional Officer at Headquarters.

These committees will act as There are no Taluk business committees for the Committees. District Planning Boards.

5 Project Advisory Committees in the districts of Madurai, Coimbatore, South Kanara, Malabar, South Arcot, Tirunelveli and Chingleput, where Community Projects are worked.

Chairman.

- (1) District Collector.
- Members.*
- (2) Revenue Divisional Officers in the Project Areas.
- (3) District Agricultural Officer.
- (4) Deputy Registrar of Co-operative Societies.
- (5) Executive Engineers for Irrigation, Highways and Electricity.
- (6) District Educational Officer.
- (7) District Health Officer.
- (8) District Veterinary Officer.
- (9) District Medical Officer.
- (10) Assistant Director of Industries and Commerce.

These committees will have advisory functions not only on the problems relating to the Project Areas, but also the functions entrusted to the District Planning Boards in relation to the other parts of the district not covered by the Community Project Area.

There are no similar Taluk Advisory Committees.

17th May 1954]

APPENDIX

[17th May 1964]

Serial number and
name of the Advisory
Committee.

Constitution of the committee.

Purpose of the committee.

Particulars about
Taluk Advisory
Committees.

Remarks.

(1)

(2)

(3)

(4)

(5)

Members—cont.

5 Project Advisory
Committees
in the districts
of Madurai,
Coimbatore,
South Kanara,
Malabar,
South Arcot,
Tirunelveli
and Chingle-
put, where
Community
Projects are
worked—cont.

- (11) Block Development Officers (National Extension Service).
- (12) Personal Assistants to the Special Officers of the District Boards.
- (13) All Members of Parliament, Council of States and State Legislatures in the district.
- (14) The President and all Members of District Board.
- (15) Chairman of Municipal Councils in the district.
- (16) Six representatives from the major village panchayats in the area.
- (17) Four representatives from the multi-purpose co-operative societies in the area.
- (18) Four representatives from the Bharat Sevak Organisation.
- (19) Two representative agriculturists.
- (20) Two leading public workers.

Secretary.

- (21) Project Executive Officer in the districts of South Kanara, Madurai, Malabar and Coimbatore and the concerned Revenue Divisional Officer, who is in overall charge of the Development Block in the districts of South Arcot, Chingleput and Tirunelveli.



6 Project Executive Committees of the Project Advisory Committees.

Chairman.

- (1) District Collector.

Members.

- (2) Executive Engineers for Irrigation, Highways and Electricity.
(3) District Veterinary Officer.
(4) District Agricultural Officer.
(5) Deputy Registrar of Co-operative Societies.
(6) Assistant Director of Industries and Commerce.
(7) Personal Assistant to the Special Officer of the District Board.
(8) President, District Board.
(9) Four non-officials.

Secretary.

- (10) Project Executive Officer in the districts of South Kanara, Madurai, Malabar and Coimbatore and the concerned Revenue Divisional Officer who is in overall charge of Development Block in the districts of South Arcot, Chingleput and Tirunelveli.

These committees will act as business committees for the Project Advisory Committees.



17th May 1954]

[17th May 1954]

Serial number and name of the Advisory Committee.	Constitution of the committee.	Purpose of the committee.	Particulars about Taluk Advisory Committees.	Remarks.
(1)	(2)	(3)	(4)	(5)
7 The District Prohibition Advisory Councils.	<i>Chairman.</i> Collector. <i>Secretary.</i> (District Prohibition Officer or District Superintendent of Police, as the case may be. <i>Members.</i> District Forest Officer. District Medical Officer. Special Development Officer or Deputy Registrar of Co-operative Societies, as the case may be. Chairman of Municipal Councils who take interest in Prohibition. Presidents of Jaggery Manufacturing Societies not exceeding two. All Members of Legislative Assembly and Members of Legislative Council. One non-official member from each Taluk Prohibition Committee. President and Secretary of the District Congress Committee. President and Secretary of the District Muslim League. Head of Roman Catholic Mission in the district and Head of the most prominent non-Roman Catholic Mission in the district.	The duty of the members is to carry on effective propaganda and enlist greater support from the Village and Taluk Prohibition Committees and the general public for Prohibition work. The Council should meet once a month as far as possible, or at least once in three months, to review the work done and put forward suggestions for better enforcement of the Act.	There is a Prohibition Committee for each taluk as provided for under section 26 of the Prohibition Act. The Revenue Divisional Officer and the Tahsildar are the Chairman and the Secretary respectively. The total strength of the committee will not ordinarily exceed 20 which includes the Deputy Prohibition Officer or the Deputy Superintendent of Police, as the case may be, qualified physicians not exceeding two in number and other non-officials who are keen and enthusiastic for the successful enforcement of Prohibition. The Committee meets once in a month to discuss the working of the Act and suggest remedial measures.	

17th May 1964]

if and when any defect is brought to notice. Every member of the Committee shall be entitled to give information at any Police or Prohibition Station in his Taluk regarding the commission or suspected commission of any offence under the Act.

Ex-officio President.

8 District Agri- District Collector.
cultural Asso-
ciation.

Joint Secretary.

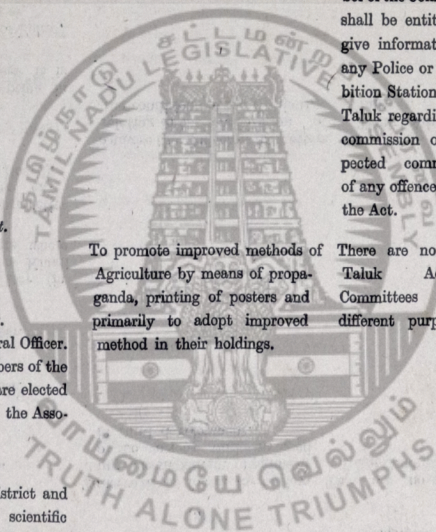
The District Agricultural Officer, The Secretary and Members of the Working Committee are elected by the Members of the Association.

Members.

Agriculturists of the District and others interested in scientific method of agricultural improvements.

To promote improved methods of Agriculture by means of propaganda, printing of posters and primarily to adopt improved method in their holdings.

There are no similar Taluk Advisory Committees for different purposes.



Serial number and name of the Advisory Committee.	Constitution of the committee.	Purpose of the committee.	Particulars about Taluk Advisory Committees.	Remarks.
(1)	(2)	(3)	(4)	(5)
9 District Rural Welfare Committees.	<i>Chairman.</i> Collector of the district. <i>Vice Chairman.</i> Revenue Divisional Officer. <i>Secretary.</i> Block Development Officer. <i>Members.</i> (i) Centre Khadi Officer (in respect of intensive Khadi Centres in districts where they exist) and (ii) Six prominent constructive workers (including ex-President, District Board).	To serve as the forum for achieving the maximum integration of the various work involved in rural development.	There are no similar Taluk Committees.	
10 District Harijan Welfare Committee.	<i>Chairman.</i> Collector of the district. <i>Members.</i> Six non-officials (excepting in Malabar district where it is eight), District Superintendent of Police, District Educational Officer, District Health Officer, Deputy Registrar of Co-operative Societies, and President of the District Board.	To advise the Collectors on matters relating to the amelioration of the conditions of the Harijans.	There are no similar Taluk Advisory Committees.	

11 District Handloom Boards in the districts of Madras, Malabar, North Arcot, Mathurai, Tanjore, Chingleput, Tiruchirappalli, South Kanara, Tirunelveli, South Arcot, Ramanathapuram, Coimbatore and Salem.

President.
Collector of the District.

Members.
Eight to nine non-officials.

Secretary.
Textile control officers have been appointed as Secretaries to the Board in the districts of Mathurai, Tanjore, Chingleput, Ramanathapuram, Tirunelveli, Coimbatore and Salem.

- (1) Study local problems of handloom industry and devise ways and means to solve them. There are no similar Taluk Boards.
- (2) Maintain correct particulars of handlooms and dye houses in the district and also the names of weavers, master weavers, dyers, etc.
- (3) Study the human and technical resources of the district and suggest steps to improve their efficiency.
- (4) Study the actual requirements of yarn and other raw materials for the industry.
- (5) Advise about standardization of handloom fabrics and planning the quality, quantity and timing of production for each weaving centre in the district so that production is adjusted to the demand.
- (6) Hold exhibitions, conduct propaganda and assist in the marketing of cloth.
- (7) Advise about such measures, do propaganda and assist in the economy of the country.

17th May 1954]

Serial number and
name of the Advisory
Committee.

Constitution of the committee.

Purpose of the committee.

Particulars about
Taluk Advisory
Committees.

Remarks.

(1)
12 The Nilgiris Dis-
trict Soil Con-
servation Board.

(2)
Chairman.
Collector of the Nilgiris.
Secretary.
Assistant Silviculturist, the Nil-
giris.

(3)
To advise, induce and enlist the
co-operation of the public in
soil conservation measures in
the Nilgiris district. It meets
every quarter.

(4)
There are no similar
Taluk Committees.

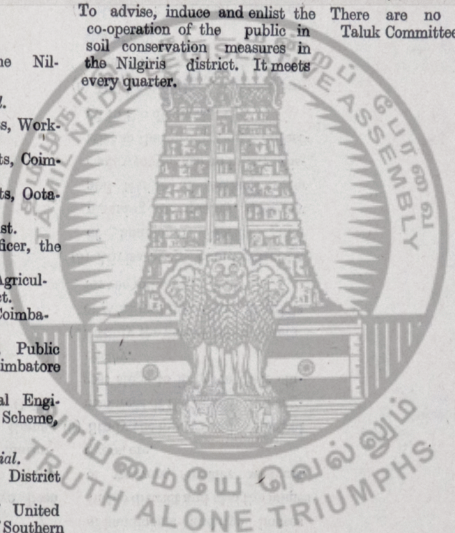
(5)
—

Members—Official.

- (1) Conservator of Forests, Work-
ing Plan Circle.
- (2) Conservator of Forests, Coim-
batore Circle.
- (3) Conservator of Forests, Oota-
camund Circle.
- (4) Provincial Silviculturist.
- (5) District Forest Officer, the
Nilgiris district.
- (6) Deputy Director of Agricul-
ture, the Nilgiris district.
- (7) Veterinary Officer, Coimba-
batore and Nilgiris.
- (8) Executive Engineer, Public
Works Department, Coimbatore
and Nilgiris.
- (9) Assistant Agricultural Engi-
neer, Soil Conservation Scheme,
the Nilgiris.

Members—Non-official.

- (1) President, Nilgiris District
Board.
- (2) A representative of United
Planters' Association of Southern
India.
- (3) Sri T. V. Chathu Kutty Nair,
Planter.
- (4) Sri N. Giriappa Gowder, Plan-
ter.
- (5) *Vacant.*



17th May 1954]

APPENDIX II.

[Vide item V (1) on page 149 supra.]

L.A. BILL No. 23 OF 1953.

(As passed by the Assembly.)

A Bill further to amend the Madras Preservation of Private Forests Act, 1949.

WHEREAS it is expedient further to amend the Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), for the purposes hereinafter appearing: It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Madras Preservation of Private Forests (Second Amendment) Act, 1954.

2. *Amendment of section 1.* *Madras Act XXVII of 1949.*—In section 1, sub-section (2), of the Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949) (hereinafter referred to as the principal Act),—

(a) in clause (i), the words “and owned by a single person or by more than one person jointly” shall be omitted; and the following Explanation shall be added at the end, namely:—

“*Explanation.*—Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to the 14th December 1949 by an owner or any person claiming under him”;

(b) the following Explanation shall be added at the end, namely:—

“*Explanation.*—A private forest exceeding 100 acres in extent shall not cease to be such by reason only of the fact that, in a portion thereof, trees or shrubs are felled with or without the permission of the District Collector, or lands are cultivated, or rocks, roads, tanks, rivers, or the like exist; nor shall the area of such forest cease to be contiguous by reason only of the existence of all or any of the aforesaid circumstances.”

3. *Amendment of section 3 of principal Act.*—In section 3, sub-section (1), of the principal Act, for clause (b), the following clause shall be substituted, namely:—

(b) Any alienation in contravention of clause (a) shall be null and void—

(i) if the alienation is of any forest declared by the State Government to be a forest under clause (iii) of section 1 (2) or of any portion of such a forest, and is made on or after the date on which the declaration takes effect;

(ii) if the alienation is of any forest in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres [not being a forest owned by a single person or by more than one person jointly before the commencement of the Madras

[17th May 1954]

Preservation of Private Forests (Second Amendment) Act, 1954], or of any portion of such a forest, and is made on or after the 24th June 1953;

(iii) if the alienation is of any other forest or of any portion of such a forest, and is made on or after the 16th August 1946."

4. *Amendment of section 5 of principal Act.*—In section 5 of the principal Act, to sub-section (1), the following Explanation shall be added, namely :—

" *Explanation.*—Sub-section (1) shall be construed—

(a) in the case of any private forest declared by the State Government to be a forest under clause (iii) of section 1 (2), as if for the words " which may be instituted after such commencement " occurring in that sub-section, the words, brackets and figures ' which are pending on, or may be instituted after, the date on which the declaration under clause (iii) of section 1 (2) takes effect ' had been substituted; and

(b) in the case of any private forest in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres [not being a forest owned by a single person or by more than one person jointly before the commencement of the Madras Preservation of Private Forests (Second Amendment) Act, 1954], as if for the words ' which may be instituted after such commencement ' occurring in that sub-section, the words, brackets and figures ' which are pending on, or may be instituted after, the commencement of the Madras Preservation of Private Forests (Second Amendment) Act, 1954 ' had been substituted."

APPENDIX III.

[Vide item V (2) on page 157 supra.]

L.A. BILL No. 22 OF 1954.

(As passed by the Assembly.)

A Bill further to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Hereditary Village-offices Act, 1895.

WHEREAS it is expedient further to amend the Madras Proprietary Estates' Village Service Act, 1894 (Madras Act II of 1894), and the Madras Hereditary Village-offices Act, 1895 (Madras Act III of 1895), for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1954.

17th May 1954]

2. *Amendment of section 16, Madras Act II of 1894.*—To sub-section (2) of section 16 of the Madras Proprietary Estates' Village Service Act, 1894 (Madras Act 11 of 1894), the following paragraph shall be added, namely :—

“ Any village officer may be placed under suspension pending inquiry against him by the District Collector or Revenue Officer aforesaid.”

3. *Insertion of new section 8-A in Madras Act III of 1895.*—In the Madras Hereditary Village-offices Act, 1895 (Madras Act III of 1895), after section 8, the following section shall be inserted, namely :—

“ 8-A. *Power to suspend village-officers pending inquiry.*—The holder of a village-office may be placed under suspension pending inquiry against him—

(i) by the Collector, if the inquiry is under section 7, sub-section (1);

(ii) by the proprietor, if the inquiry is under section 8.”

4. *Validation of orders of suspension pending inquiry.*—Every order made before the commencement of this Act placing under suspension pending inquiry any village-officer as defined in section 4 of the Madras Proprietary Estates' Village Service Act, 1894 (Madras Act II of 1894), or the holder of any of the offices forming class (1) or class (3) in section 3 of the Madras Hereditary Village-offices Act, 1895 (Madras Act III of 1895), shall, for all purposes, be deemed to have been validly made.

APPENDIX IV.

[Vide item V (3) on page 160 supra.]

L. A. BILL No. 23 OF 1954.

(As passed by the Assembly.)

A Bill to provide for the acquisition of undertakings in the State of Madras supplying electricity.

WHEREAS it is expedient in the public interests that the business and service of the generation and supply of electricity be carried on by the State of Madras to the complete exclusion of all other persons inclusive of citizens and local authorities;

AND WHEREAS it is necessary for the said purpose to provide for the acquisition of undertakings in the State of Madras supplying electricity;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Electricity Undertakings (Acquisition) Act, 1954.

(2) It extends to the whole of the State of Madras.

(3) It shall come into force at once.

[17th May 1954]

2. *Definitions and interpretation.*—(1) In this Act, unless the context otherwise requires—

(a) 'account year' means the licensee's financial year;

(b) 'accredited representative' means the representative appointed or deemed to have been appointed under section 7;

(c) 'annual account' means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act, or where no such account has to be rendered under that Act, the account of the undertaking normally made up for the account year of the undertaking and audited by a certified auditor.

(d) 'document' in relation to an undertaking, includes its books, accounts, registers, maps and plans;

(e) 'Electricity Act' means the Indian Electricity Act, 1910 (Central Act IX of 1910);

(f) 'Electricity Supply Act' means the Electricity (Supply) Act, 1948 (Central Act LIV of 1948);

(g) 'fixed assets' includes works, spare parts, stores, tools, motor and other vehicles, office equipment and furniture;

(h) 'Government' means the State Government;

(i) 'intangible assets' means any amount paid on account of goodwill, under-writers' commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting electricity supply;

(j) 'licensee' means a person, licensed under Part II of Electricity Act to supply electrical energy, or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying electricity and, in relation to an undertaking taken over or an undertaking which has vested in the Government under section 4, the person who was the licensee at the time the undertaking was taken over or vested in the Government, as the case may be, or his successor-in-interest;

(k) 'prescribed' means prescribed by rules made under this Act;

(l) 'undertaking taken over' means an undertaking taken over by the Government after the 1st January 1951 and before the commencement of this Act;

(m) 'vesting date' means, in relation to an undertaking, the date fixed under section 4, sub-section (1), as the date on which the undertaking shall vest in the Government or in the case of an undertaking taken over, the date on which it was taken over;

(n) 'works' includes electric supply lines and any lands, buildings, machinery or apparatus, required to supply energy and to carry into effect the objects of a licence or sanction for the supply of electricity, granted under the Electricity Act;

17th May 1954]

(o) other expressions shall have the meanings respectively assigned to them in the Electricity Act or the rules thereunder.

(2) Any reference in this Act to the vesting of an undertaking in the Government shall, in the case referred to in section 6 (2) (a), be construed as a reference to the vesting in the Government of the property, rights, liabilities and obligations specified in that section.

3. *Application of Act.*—(1) This Act shall apply to all undertakings of licensees including—

(a) undertakings in respect of which notice for compulsory purchase has been served under section 7 of the Electricity Act, such undertakings not having been taken over before the commencement of this Act; and

(b) undertakings taken over.

(2) Any notice given under section 7 aforesaid in respect of any undertaking, in pursuance of which notice the undertaking has not been taken over before the commencement of this Act, shall lapse and be of no effect; and save as otherwise provided in section 22, sub-section (1), of this Act, the Electricity Supply Act shall apply to the undertaking, to the same extent as it would have applied if the notice had not been served.

Explanation.—There shall be no obligation on the part of the Government to purchase any undertaking in pursuance of any notice given as aforesaid; nor shall the service of such notice be deemed to prevent the Government from taking any proceeding *de novo* in respect of the undertaking under this Act.

4. *Power of Government to take over any undertaking.*—

(1) The Government may, in respect of any undertaking not taken over by them before the commencement of this Act, by order in writing, declare that it shall vest in them on the date specified therein, such date not being earlier than four months from the date of the declaration :

Provided that the Government may, from time to time, postpone such date, so however that the postponed date shall not be later than one year from the date originally fixed.

(2) Every order under sub-section (1) shall be served on the licensee in the prescribed manner and shall also be published in such manner as the Government think fit.

5. *Compensation payable to a licensee.*—The compensation payable to a licensee, on whom an order has been served under section 4 or whose undertaking has been taken over before the commencement of this Act, shall be determined under any one of the Bases A, B and C specified below, as may be chosen under section 8.

(1) *Basis A.*—(i) The compensation payable under this basis shall be an amount equal to twenty times the average net annual profit of the undertaking during a period of five consecutive account years immediately preceding the vesting date.

[17th May 1954]

Explanation.—For the purpose of this clause, the net annual profit shall be determined in the manner laid down in Part A or Part B, as the case may be, of Schedule I.

(ii) This basis shall not apply to an undertaking which has not been supplying electricity for five consecutive account years immediately preceding the vesting date.

(2) *Basis B.*—The compensation payable under this basis shall be the aggregate value of all the shares constituting the share capital of the undertaking, reckoned as shown below :—

(a) In the case of shares issued on or before the 31st March 1946, the value of each share shall be reckoned at its average value as arrived at from the quotations for the shares as given in the official list of the Madras Share Market on the 15th day of each month and where such market was closed on that day, the quotations on the next working day, during the period of three years commencing on the 1st April 1946 and ending on the 31st March 1949 :

Provided that this clause shall not apply if any one or more of the different classes of shares constituting the capital of the undertaking were not being regularly quoted in such market during the period of three years aforesaid, or if such quotations during the whole of any one of those three years were not based on actual transactions in such year.

(b) In the case of shares issued on or before the 31st March 1946, if clause (a) does not apply but there have been *bona fide* transfers in each of the different classes of shares in every one of the three years aforesaid, and such transfers have been duly registered in the appropriate books of the licensee, the value of each share of each such class shall be reckoned at one-third of the aggregate of its three annual average values for the three years, the average value for each year being determined from the transactions in that year.

(c) Where the amounts called for in respect of any share referred to in clause (a) or clause (b) are in arrears, the value of such share shall be taken to be a sum which bears to its value as reckoned under clause (a) or clause (b), as the case may be, the same proportion as the amount paid up bears to the full amount payable in respect of the share.

(d) In the case of shares issued after the 31st March 1946, their aggregate value shall be taken to be the amount actually paid in respect thereof (including the premium, if any), together with an additional sum by way of solatium, calculated at the rate of two per cent for every completed year preceding the vesting date on the amount so paid which was in existence during the whole of such year as shown in the licensee's books :

Provided that no part of such amount shall be entitled to a solatium exceeding ten per cent thereof.

Explanation.—This basis shall not apply unless clause (a) or clause (b) is applicable.

17th May 1954]

(3) *Basis C.*—The compensation payable under this basis shall be the aggregate value of the amounts specified below :—

(i) the book value of all completed works in beneficial use pertaining to the undertaking and handed over to the Government (excluding works paid for by consumers) *less* depreciation calculated in accordance with Schedule II;

(ii) the book value of all works in progress handed over to the Government, excluding works paid for by consumers or prospective consumers;

(iii) the book value of all stores including spare parts handed over to the Government and in the case of used stores and spare parts, such sum as may be decided upon by mutual agreement between the Government and the licensee;

(iv) the book value of all other fixed assets in use on the vesting date and handed over to the Government *less* depreciation calculated in accordance with Schedule II;

(v) the book value of all plant and equipment existing on the vesting date but no longer in use owing to wear and tear or to obsolescence, to the extent such value has not been written off in the books of the licensee *less* depreciation calculated in accordance with Schedule II;

(vi) the book value of all intangible assets, to the extent such value has not been written off in the books of the licensee;

(vii) the amount due from consumers in respect of every hire-purchase agreement referred to in section 6 (2) (a) (ii) *less* a sum which bears to the difference between the total amount of the instalments and the original cost of the material or equipment, the same proportion as the amount due bears to the total amount of the instalments;

(viii) any amount paid actually by the licensee in respect of every contract referred to in section 6 (2) (a) (iii);

(ix) an additional sum by way of solatium—

(a) in case the licensee is a person licensed under Part II of the Electricity Act, at the rate specified in the licence in respect of compulsory purchase, or where no rate is specified in the licence, at fifteen per cent on the values referred to in sub-clauses (i) and (iv), at the rate of ten per cent on the value referred to in sub-clause (ii), and at the rate of five per cent on the value referred to in sub-clause (iii);

(b) in case the licensee is a person who has obtained sanction under section 28 of that Act to engage in the business of supplying electrical energy, at the rate of ten per cent on the values referred to in sub-clauses (i) and (iv) and at the rate of five per cent on the values referred to in sub-clauses (ii) and (iii).

[17th May 1954]

Explanation.—(1) For the purposes of Basis C, the book value of any fixed asset means its original cost, and shall comprise—

(i) the purchase price paid by the licensee for the asset, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking;

(ii) interest charges on capital expenditure incurred from borrowed money and shown in the books of the undertaking as properly attributable to the asset up to the date of bringing it into beneficial use, at a rate not exceeding six per cent per annum;

(iii) cost of supervision actually incurred, but not exceeding fifteen per cent of the amount referred to in paragraph (i).

(2) Where any asset was acquired after the expiry of the period to which the latest annual account relates, or where no annual account has to be rendered under the Electricity Act, the book value of the asset shall be such sum as may be decided upon by mutual agreement between the Government and the licensee.

6. *Vesting of the undertaking or assets.*—(1) If compensation is payable in respect of an undertaking under Basis A or Basis B, all property belonging to the undertaking including fixed assets, cash, securities, investments, documents and the like and all its rights, liabilities and obligations as on the vesting date, shall vest or shall be deemed to have vested in the Government:

Provided that liabilities and obligations not incurred in a *bona fide* manner shall not vest or be deemed to have vested in the Government—

(i) in so far as they are in excess of the value on the vesting date of the corresponding assets, if any, vesting or deemed to have vested in the Government; or

(ii) where there are no corresponding assets which vest or are deemed to have vested in the Government.

Explanation.—For the purposes of this sub-section “ undertaking ” includes every business carried on by the licensee, the funds of which form part of the funds of the licensee.

(2) (a) If compensation is payable in respect of an undertaking under Basis C, only the property, rights, liabilities and obligations specified herein shall vest or be deemed to have vested in the Government on the vesting date—

(i) all the fixed assets of the licensee and all the documents relating to the undertaking;

(ii) all the rights, liabilities and obligations of the licensee under hire-purchase agreements, if any, for the supply of materials or equipment made *bona fide* before the vesting date;

(iii) all the rights, liabilities and obligations of the licensee under any other contract entered into *bona fide* before the vesting date not being a contract relating to the borrowing or lending of money.

17th May 1954]

(b) All the assets specified in clause (a) (i) shall vest or shall be deemed to have vested in the Government free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that such debts, mortgages or obligations shall attach or shall be deemed to have attached to the compensation payable under this Act for the assets.

(3) In the case of all undertakings which vest or are deemed to have vested in the Government under this Act, the licence granted or the sanction given for the supply of electricity shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the licensee under any agreement to supply electricity entered into before that date shall devolve or shall be deemed to have devolved on the Government :

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the Government and in force on the vesting date, the agreement shall be voidable or shall be deemed to have been voidable at the option of the Government.

(4) In respect of any undertaking to which section 4 applies or any undertaking taken over, it shall be, and shall be deemed always to have been, lawful for the Government, after removing any obstruction that may be or might have been offered, to take possession of the entire undertaking or, as the case may be, of the fixed assets and of all documents relating to the undertaking which the Government may require, or required, for carrying it on.

7. *Appointment of a sole representative.*—(1) Every licensee may, within three months of the receipt of an order under section 4, sub-section (1), intimating the vesting date or, in the case of an undertaking taken over, within three months of the commencement of this Act, appoint an individual who may be the managing agent or a director or an officer of the licensee or any other person to act as his sole and accredited representative in connexion with the handing over of the undertaking or the fixed assets, as the case may be, to the Government and performing on behalf of the licensee the functions hereinafter specified.

(2) Where the licensee is a company registered under the Indian Companies Act, 1913 (Central Act VII of 1913), the appointment of the accredited representative shall be made by the shareholders of the company at a meeting specially convened for the purpose.

(3) Nothing in the foregoing sub-sections shall be deemed to require a licensee of an undertaking taken over, who has appointed an individual as his sole and accredited representative, to make a fresh appointment after the commencement of this Act; and the said representative shall be deemed for all purposes to be the accredited representative appointed under the foregoing sub-sections.

[17th May 1954]

(4) Where the accredited representative resigns or dies or becomes incapable of acting or is in the opinion of the Government, incompetent or dishonest or where the appointment of such representative is set aside or declared void by competent authority, the Government shall call upon the licensee, to appoint within six weeks, another person as his accredited representative.

(5) The remuneration of, and the expenditure incurred by, the accredited representative shall be, and shall be deemed always to have been, payable from the compensation deposited or deemed to have been deposited under this Act and shall have and shall be deemed always to have had priority over all other debts and liabilities.

(6) All assurances conveyed, and all statements made, by such representative (inclusive of a representative whose appointment is subsequently set aside or declared void by competent authority) shall be binding on the licensee.

(7) Where the licensee does not appoint an individual to act as his sole and accredited representative under sub-section (1) or sub-section (4), the functions hereinafter assigned to the accredited representative shall be performed by the licensee; and all references in the rest of this Act to the accredited representative shall be construed as references to the licensee and any reference to a period of time to be reckoned from the date of appointment of the accredited representative shall, in such a case, be reckoned from the last date on which such accredited representative could have been appointed.

8. *Choice of basis of compensation.*—(1) Within one month of his appointment, or such further time as may be granted by the Government, the accredited representative shall intimate to the Government in writing which basis of compensation, A, B or C, shall be adopted in respect of the undertaking.

(2) The choice of the basis of compensation once intimated to the Government shall not be open to revision except with their concurrence.

(3) Where no choice has been intimated on behalf of the undertaking within the time allowed by sub-section (1), the Government shall declare the basis under which compensation will be paid for the undertaking and that basis shall be binding on the licensee as if the choice had been duly made in accordance with the foregoing provisions.

(4) Where in respect of an undertaking taken over, the accredited representative has intimated to the Government which basis of compensation, A, B or C, should be adopted in respect of the undertaking, such intimation shall be deemed to have been made under this section and is hereby declared not open to revision except with the concurrence of the Government.

9. *Effect of transactions not bona fide.*—Where the Government are of opinion that any licensee has on or after the 1st October 1947, disposed of any fixed asset whether by way of sale, exchange, gift, lease or otherwise or incurred capital expenditure,

17th May 1954]

otherwise than in the normal course of events with a view to benefit unduly the licensee or some other person and thereby caused loss to the Government as succeeding owners of the undertaking, the Government shall be and shall be deemed always to have been entitled to deduct from the compensation payable to the licensee under this Act, an amount which they consider or considered to be the loss sustained by them :

Provided that notice of the intention to make such deduction shall be or shall have been given to the licensee within one year from the vesting date.

10. *Deductions from the compensation.*—(1) The Government shall be and shall be deemed always to have been entitled to deduct the following sums from the compensation payable under this Act to a licensee :—

(a) the amount, if any, already paid in advance by way of compensation;

(b) the amount, if any, specified in section 9;

(c) the amount due if any from the licensee to the Government for energy supplied by the Government before the vesting date;

(d) all other amounts and arrears of interest, if any, thereon due from the licensee to the Government, except loans and arrears of interest, if any, thereon;

(e) the amount, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the amount of such loss being deemed to be—

(i) in cases where compensation is payable under Basis A or Basis B, the market value on the vesting date of such property or rights, together with any income which might have been realized by the Government if the property or rights had been handed over on the vesting date; and

(ii) in cases where compensation is payable under Basis C, the amount by which the market value of such property or rights exceeds the compensation payable therefor under this Act, together with any income which might have been realized as aforesaid.

(2) In addition to the deductions specified above, the Government shall also be and be deemed always to have been entitled to make the following deductions :—

(a) in cases where the compensation is payable under Basis A or Basis B, any sum which during a period not exceeding three consecutive account years immediately before the vesting date has been distributed as profits, but is not correctly so distributable;

(b) in cases where the compensation is payable under Basis C—

(i) the amount of all loans due from the licensee to the Government and arrears of interest, if any, thereon;

[17th May 1954]

(ii) a portion of the amount of solatium bearing the same proportion to the total amount of solatium, as the amount of all loans due to the Government from the licensee on the vesting date bears to the aggregate of—

(a) the paid up share capital of the licensee not being a local authority, or the value of the capital assets as shown in the capital account of the undertaking in the case of a licensee being a local authority,

(b) his debenture capital, and

(c) the amount of all loans due to the Government as aforesaid;

(iii) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date in so far as they have not been paid over by the licensee to the Government, *less* the amounts which according to the books of the licensee are due from the consumers to the licensee for energy supplied by him before that date;

(iv) all advances from consumers and prospective consumers, and all sums which have been or ought to be set aside to the credit of the consumers' fund in so far as such advances or sums have not been paid over by the licensee to the Government;

Explanation.—For the purpose of this clause, 'consumers' fund' shall, in the case of the undertaking of a licensee being a local authority, mean the amount referred to as such in the bulk supply agreement or, where no such reference has been made in the bulk supply agreement, the net profits of the undertaking remaining after effecting the appropriations to the general funds of the local authority in accordance with the terms of the said agreement. In the case of the undertaking of a licensee other than a local authority, for any account year prior to the date on which the Sixth Schedule to the Electricity Supply Act came into force, it shall mean the amount referred to as such in the bulk supply agreement and, for any account year on and from the said date, it shall mean the amount specified in paragraph II (1) of the said Schedule as the amount to be set apart for distribution to consumers;

(v) all deposits made by, and all sums due to, the staff transferred to the Government on account of Provident Fund or other beneficial schemes, in so far as such deposits or sums have not been paid over by the licensee to the Government, *less* the amounts which the Government are satisfied are due to the licensee from the members of the staff so transferred:

Provided that no deduction shall be made in pursuance of paragraph (v), in so far as the deposits or sums aforesaid may be in the custody of trustees under a valid deed of trust.

(3) In the case referred to in the foregoing proviso, the Government shall have, and shall be deemed always to have had, power to require the trustees to transfer the funds with them, and

17th May 1954]

the securities and other properties, if any, in which the same may have been invested, in so far as they may relate to the staff transferred to the Government; and the trustees shall be completely discharged in respect of all claims to, or enforceable against, the funds, securities and other properties so transferred.

11. *Manner of payment or deposit of compensation.*—(1) The compensation due to a licensee under this Act shall be paid or deposited in cash, as hereinafter provided in this section.

(2) Within four months from the vesting date in the case of an undertaking which vests in the Government in pursuance of an order under section 4, sub-section (1), and as soon as may be after the commencement of this Act in the case of an undertaking taken over, the Government shall estimate roughly the compensation payable to the licensee under this Act.

(3) Three-fourths of the amount as so estimated shall be paid by the Government to the licensee, where it is a local authority after deducting any amount paid, whether before or after the commencement of this Act, as or towards the compensation payable and the amounts referred to in section 10.

(4) In the case of any other licensee, the Government shall deposit in the Reserve Bank of India or any other Bank chosen by the Government for the purpose (which Reserve or other Bank is hereinafter referred to as the Bank) three-fourths of the amount as estimated under sub-section (2), after deducting therefrom the amounts referred to in section 10.

Explanation.—Where the amount to be paid or deposited under sub-section (3) or this sub-section is equal to or less than the amount to be deducted therefrom as aforesaid, no payment or deposit need be made under sub-section (3) or this sub-section.

(5) Nothing in sub-section (2) or sub-section (4) shall require the Government to estimate roughly the compensation payable to a licensee under this Act or to deposit in the Bank three-fourths of the amount as so estimated after deducting therefrom the amounts referred to in section 10, in a case where, in respect of an undertaking taken over, the Government have, before the commencement of this Act, estimated roughly the compensation payable to the licensee and have deposited in the Bank three-fourths of the amount as so estimated after deducting therefrom the amounts referred to in section 10; and the estimate and the deposit made by the Government in any such case shall be deemed for all purposes to be an estimate and a deposit made under sub-section (2) and sub-section (4), respectively.

(6) (a) Within one year from the date on which the compensation was estimated under sub-section (2), the Government shall determine the amount of compensation payable in respect of the undertaking and pay to the licensee or deposit in the Bank

[17th May 1954]

the balance left from the amount aforesaid after deducting therefrom (a) the amounts referred to in section 10, and (b) the payment or deposit previously made under sub-section (3) or sub-section (4), as the case may be.

(b) Nothing in clause (a) shall require the Government to determine the amount of compensation payable in respect of the undertaking or to make a deposit in a Bank in any case where, in respect of an undertaking taken over, the Government have determined the amount of compensation payable in respect of the undertaking and have deposited in the Bank the balance left from the amounts aforesaid after deducting therefrom the amounts referred to in section 10 and the deposit previously made or deemed to have been made under sub-section (4); and the determination and the deposit shall in such a case be deemed to have been made under clause (a).

(c) Where the accredited representative claims or in the case of an undertaking taken over has claimed that compensation is or was due to the licensee over and above that as determined or deemed to have been determined by the Government under clause (a), the amount, if any, to which it is finally decided in pursuance of this Act that the licensee is entitled, shall be paid to the licensee or deposited in the Bank, as the case may be, within one month from the date on which such final decision is arrived at.

(d) All amounts liable to be paid or deposited in pursuance of clause (a) or clause (c) shall bear interest at three per cent per annum from the date of expiry of four months from the vesting date.

(7) In the case referred to in the Explanation to sub-section (4), that is to say, where no payment or deposit has been previously made, the Government shall pay to the licensee or deposit in the Bank the amount of compensation determined under clause (a) of sub-section (6), after deducting therefrom the amounts referred to in section 10, together with interest on the amount to be paid or deposited, at three per cent per annum from the date of expiry of four months from the vesting date.

(8) The amount of compensation as estimated under sub-section (2) and the amount of compensation as finally determined under sub-section (6) shall be intimated forthwith to the accredited representative and he shall, within two weeks of such intimation or such further time as may be allowed by the Government, state in writing whether the amount as determined by the Government is agreed to by him acting on behalf of the licensee.

(9) Every person claiming any amount deposited in the Bank under the foregoing sub-sections, or any portion thereof, shall apply to the Special Officer appointed by the Government in this behalf, within three months from the date of the deposit or within such further time as the Special Officer may allow.

17th May 1954]

(10) (a) The Special Officer shall, as expeditiously as possible, inquire into all claims made under sub-section (9) and determine the persons who, in his opinion, are entitled to the amount deposited and the sum to which each of them is entitled and disburse the same to him.

(b) The Special Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit in respect of the following matters :—

(i) enforcing the attendance of any person and examining him on oath;

(ii) compelling the production of documents; and

(iii) issuing commissions for the examination of witnesses.

The Special Officer shall also have such further powers as may be prescribed.

(c) Any person deeming himself aggrieved by any decision of the Special Officer under clause (a) may appeal to the High Court, within three months from the date of such decision or within such further time as the High Court may grant.

(11) Where, in respect of an undertaking taken over, the Government have appointed a Special Officer for the purposes stated in sub-section (9), such appointment is hereby declared to have been validly made and is confirmed. The Special Officer so appointed is hereby declared to have and to have always had the jurisdiction, powers and duties conferred and laid on the Special Officer by sub-sections (9) and (10). Applications presented to such Special Officer, and judgments and orders pronounced by him, and action taken by him or by others under his direction or in the course or for the purpose of or in relation to applications presented to him, if they would have been validly presented, pronounced, or taken had sub-sections (9) and (10) been in force when they were presented, pronounced, or taken, are hereby declared to have been validly presented, pronounced or taken.

(12) All acts done, and judgments and orders pronounced, by the High Court in any appeal or other proceeding arising out of any decision of a Special Officer appointed by the Government in relation to an undertaking taken over, are hereby declared to have been validly done or pronounced and any appeal or other proceeding arising out of a decision of such Special Officer may be disposed of by the High Court as an appeal or other proceeding arising out of a decision of such Special Officer appointed by the Government under sub-section (9).

12. *Repayment of debentures, loans, etc.*—Notwithstanding anything to the contrary in any contract or agreement or in any law for the time being in force, all loans, debentures, mortgages and the like outstanding against the licensee on the vesting date

[17th May 1954]

may be repaid and shall be deemed always to have been repayable by the Government, or the licensee, or the Special Officer, although the time for their repayment may or might not have arrived.

13. *Arbitration*.—(1) Where any dispute arises or is pending between the accredited representative and the Government in respect of any of the matters specified below or such other matter as may be prescribed, it shall be determined by an arbitrator appointed by the Government who shall be a District Judge or a person who is a retired High Court Judge or a retired District Judge:—

(a) The amount of the compensation payable in respect of the undertaking as a whole or any component part thereof;

(b) whether any property belonging, or any right, liability or obligation attaching, to the undertaking vests in the Government;

(c) whether any fixed asset forms part of the undertaking;

(d) whether any contract or hire-purchase agreement or other contract referred to in section 6 (2) (a) (ii) or (iii) has been entered into *bona fide* or not;

(e) whether any agreement to supply electricity entered into by the licensee prior to the vesting date is of the nature referred to in section 6, sub-section (3), proviso;

(f) whether the Government are entitled to deduct any sum under section 9 or section 10.

(2) Subject to the provisions of this section, the provisions of the Arbitration Act, 1940 (Central Act X of 1940), shall apply to all arbitrations under this Act.

(3) The arbitrator may, if he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the whole or any part of the reference with the aid of such assessor or assessors.

(4) Where, in respect of an undertaking taken over, an award in a dispute of the nature referred to in sub-section (1) has been made by an arbitrator appointed by the Government, such award is hereby declared to have been validly made.

14. *Termination of managing agency*.—(1) Any agreement between the licensee and his managing agent or managing director (by whatever name known) shall, notwithstanding anything to the contrary in such agreement, be deemed to have been terminated on the vesting date in so far as it relates to the undertaking; and the managing agent or managing director shall not be entitled to any remuneration or commission for such period of the agreement as may remain unexpired on the vesting date but shall be entitled only to compensation as determined under sub-section (2).

(2) Where the agreement was in force on the 1st November 1949 and continued to be in force until the vesting date, without having been renewed or replaced by a fresh agreement for a further

17th May 1954]

period, the managing agent or managing director shall, for such period of the agreement as may remain unexpired on the vesting date or for a period of two years, whichever is less, be entitled to compensation calculated at the following rate per annum, namely :—

The average annual ordinary remuneration (including purchasing commission and office allowance) to which a managing agent of the licensee would have been entitled under paragraph XIII of the Sixth Schedule to the Electricity Supply Act during a period of two complete account years immediately preceding the vesting date.

(3) Any amount payable to a managing agent or managing director under sub-section (1) shall be payable from the compensation deposited or deemed to have been deposited under this Act.

15. *Provisions for existing staff of licensees.*—Notwithstanding anything to the contrary in any contract or agreement or in any law for the time being in force, the following provisions shall apply and shall be deemed always to have applied in regard to the persons on the staff of the licensee immediately before the vesting date :—

(1) The Government shall have and shall be deemed always to have had power to terminate the services of any such person after giving him three calendar months' notice in writing or paying him three months' pay in lieu of such notice.

(2) Persons whose services are retained shall be governed by such rules as the Government may, from time to time, make in regard to them.

16. *Inventory of assets and information in regard to documents maintained by the licensee.*—(1) Every licensee shall within three months from the date on which an order under section 4, sub-section (1), is served on him, or such further time as may be allowed by the Government, prepare and hand over to them a complete inventory of all the assets belonging to his undertaking and of its documents.

(2) The licensee shall also write up the accounts of his undertaking up to the vesting date, get them audited, and submit them to the Government within three months from that date or such further time as may be granted by the Government.

(3) The licensee shall also, within such time as may be specified by the Government, furnish to them such information and particulars as may be required by the Government in regard to the documents relating to the undertaking.

(4) The licensee shall not destroy any document relating to the undertaking and shall hand over to the Government on the vesting date all such documents in cases falling under section 6, sub-section (1), and in cases falling under section 6, sub-section (2), all such documents as are necessary for ascertaining the assets of

[17th May 1954]

the undertaking, the rights, liabilities and obligations attaching thereto or the terms of employment of the staff and for determining the compensation payable for the undertaking under this Act.

(5) Where the documents aforesaid have been taken possession of by the Government, the licensee or any person authorized in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

17. *Power of entry*.—Any officer or servant of the Government authorized by the Government in this behalf by general or special order may, at any time, after giving the licensee reasonable notice, enter upon any land or premises in his possession and make any survey, examination, or investigation preliminary or incidental to the purposes of this Act.

18. *Penalties*.—(1) Whoever, being required to furnish any information or make any statement under this Act, furnishes any information or makes any statement which he knows to be false, or whoever wilfully fails to hand over to the Government any fixed asset belonging to the undertaking or wilfully suppresses or destroys any document which is to be handed over to the Government under section 16, sub-section (4), shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees or with both and in the case of a continuing offence with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(2) Whoever fails, without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder or any directions or order issued in pursuance thereof, shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to twenty thousand rupees and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(3) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), it shall be lawful for any Magistrate of the First Class specially empowered by the Government in this behalf or for any salaried Presidency Magistrate, to impose a sentence of fine exceeding one thousand rupees when awarding punishment under sub-section (1) or (2).

(4) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorized by them in this behalf.

19. *Offences by corporation*.—Where a person committing any offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, the manager, secretary, agent or other principal officer managing the affairs of such company, association or body shall be deemed to be guilty of such offence.

17th May 1954]

20. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against the Government or any officer or servant of the Government or any person acting under the direction of the Government or an officer or servant of the Government or aiding or assisting the Government or an officer or servant of the Government, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder or in respect of anything which was in good faith done or intended to be done in the exercise of the powers or jurisdiction purported to be conferred by the Madras Electricity Supply Undertakings (Acquisition) Act, 1949 (Madras Act XLIII of 1949), or any rule or order made thereunder.

21. *Power to make rules.*—(1) The Government may, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters required or allowed by this Act to be prescribed;

(b) the manner of service of notices and orders under this Act;

(c) the obtaining of the particulars necessary for assessing the compensation under this Act;

(d) the appointment of auditors and their duties and remuneration;

(e) the inspection, checking and taking over of the assets and documents of an undertaking;

(f) the qualification of, and the remuneration payable to the accredited representative;

(g) the procedure to be followed by the Special Officer under section 11;

(h) the remuneration payable to an arbitrator appointed under section 13;

(i) the manner of obtaining the information and particulars referred to in section 16, sub-section (3).

(3) All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act.

22. *Effect of other laws.*—(1) No provision of the Electricity Act or of the Electricity Supply Act or of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), or of the Madras District Municipalities Act, 1920 (Madras Act V of 1920), or of the Madras District Boards Act, 1920 (Madras Act XIV of 1920), or of the Madras Village Panchayats Act, 1950 (Madras Act X of 1950), or of any rule made under any of those Acts or of any instrument

[17th May 1954]

having effect by virtue of any of those Acts or any rule made thereunder shall, in so far as it is inconsistent with any of the provisions of this Act, have any effect.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Electricity Act and the Electricity Supply Act.

23. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the difficulty.

A copy of every order passed under this section shall be laid before each House of the State Legislature.

24. *Saving and validation.*—Orders made, decisions or directions given, notifications issued, proceedings taken and acts or things done, in relation to any undertaking taken over, if they would have been validly made, given, issued, taken or done, had the Madras Electricity Supply Undertakings (Acquisition) Act, 1949 (Madras Act XLIII of 1949), and the rules made thereunder been in force on the date on which the said orders, decisions or directions, notifications, proceedings, acts or things, were made, given, issued, taken or done, are hereby declared to have been validly made, given, issued, taken or done, as the case may be, except to the extent to which the said orders, decisions, directions, notifications, proceedings, acts or things are repugnant to the provisions of this Act.

25. *Repeal of Madras Act XLIII of 1949.*—The Madras Electricity Supply Undertakings (Acquisition) Act, 1949 (Madras Act XLIII of 1949), is hereby repealed.

SCHEDULE I.

[See section 5 (1).]

Part A—Applicable to a licensee not being a local authority.

1. For the purposes of section 5 (1), 'net annual profit' shall, in respect of any account year subsequent to the date on which section 57 of the Electricity Supply Act and the Sixth Schedule thereto came into force, mean the excess of 'income' over 'expenditure' as defined below, *less* the sums referred to in paragraph 4 or, as the case may be, *plus* the sums referred to in paragraph 5.

2. For the purposes of foregoing paragraph, 'income' means income derived from—

- (i) gross receipts from sale of energy, less discounts applicable thereto;
- (ii) rental of meters and others apparatus hired to consumers;
- (iii) sale and repair of lamps and apparatus;

17th May 1954]

- (iv) rents;
- (v) transfer fees;
- (vi) investments, fixed and call deposits, and bank balances;
- (vii) other general receipts accountable in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply.

3. For the purposes of paragraph 1, 'expenditure' means the expenditure incurred on—

- (i) generation and purchase of energy;
- (ii) distribution and sale of energy;
- (iii) rents, rates and taxes, other than all taxes on income and profits;
- (iv) interest on loans;
- (v) interest on security deposits;
- (vi) legal charges;
- (vii) bad debts;
- (viii) auditor's fees;
- (ix) management, including managing agents' remuneration as provided for in paragraph XIII of the Sixth Schedule aforesaid;
- (x) depreciation, calculated on a flat rate basis as specified in Schedule II;
- (xi) other expenses admissible under the law for the time being in force in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply;
- (xii) contributions to Provident Fund, staff pension, gratuity and apprentice and other training schemes.

4. The sums referred to in paragraph 1 as those to be deducted from the excess of 'income' over 'expenditure' are—

- (a) the appropriations to the consumers' fund for purposes of distribution to consumers, where such appropriations are necessary by virtue of paragraph II (1) of the Sixth Schedule aforesaid,
- (b) the contributions to the Tariffs and Dividend Control Reserve, where such contributions are necessary by virtue of paragraph II (1) aforesaid, and
- (c) the taxes paid or payable, in respect of appropriations and contributions aforesaid, as taxes on income and profits.

5. The sums referred to in paragraph 1 as those to be added to the excess of 'income' over 'expenditure' are—

- (a) the appropriations from the Tariffs and Dividend Control Reserve to the extent necessary by virtue of paragraph II (2) of the Sixth Schedule aforesaid, and
- (b) the taxes paid or payable, in respect of the appropriations aforesaid as taxes on income and profits.

[17th May 1954]

Part B—Applicable to a licensee being a local authority.

For the purpose of section 5 (1), 'net annual profit' in respect of any account year of a licensee being a local authority shall be (i) the amount actually appropriated, or (ii) the amount which could have been appropriated, to the general funds of the local authority on account of the undertaking for that account year in accordance with the audited accounts of the undertaking.

SCHEDULE II.

[See section 5 (3).]

For purposes of payment of compensation under section 5 (3), the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book-value of each asset by the number of years of life of the asset as specified in the table below. For the account year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the last account year to the date of taking over, the depreciation shall be calculated *pro rata*. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

TABLE.

Description of asset.	Number of years or period.
A. Land owned under full title	Infinite.
B. Land held under lease—	
(a) for investment in the land	The period of the lease or the period remaining unexpired on the assignment of the lease.
(b) for cost of clearing site	The period of the lease remaining unexpired at the date of clearing this site.
C. Assets purchased new—	
(a) Plant and machinery in generating stations, including plant foundations—	
(i) Hydro-electric	Thirty-five.
(ii) Steam-electric	Twenty-five.
(iii) Diesel-electric	Fifteen.
(b) Cooling towers and circulating water systems ..	Thirty.
(c) Hydraulic works forming part of a hydro-electric system, including—	
(i) dams, spillways, weirs, canals, reinforced concrete flumes and syphons.	One hundred.
(ii) reinforced concrete pipe-lines, and surge tanks, steel pipe-lines, sluice gates, steel surge tanks, hydraulic control valves and other hydraulic works.	Forty.
(d) Buildings and civil engineering works of a permanent character, not mentioned above—	
(i) Offices and show-rooms	Fifty.
(ii) containing thermo-electric generating plant ..	Thirty.

17th May 1954]

*Description of assets.**Numbers of years
or period.*C. Assets purchased new—*cont.*

- (iii) containing hydro-electric generating plant .. Thirty-five.
- (iv) temporary erections such as wooden structures. Five.
- (v) Others Fifty.
- (e) Transformer, transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations)—
- (i) transformers (including foundations) having a rating of 100 kilovolt amperes and over. Thirty-five.
- (ii) others Twenty-five.
- (f) Switchgear, including cable connections .. Twenty.
- (g) Batteries Ten.
- (h) (i) Underground cables, including joint boxes and disconnecting boxes. Forty.
- (ii) Cable duct system Sixty.
- (i) Overhead lines, including supports—
- (i) lines on steel or reinforced concrete supports operating at nominal voltages higher than 13.2 kilovolts. Thirty.
- (ii) other lines on steel or reinforced concrete supports. Twenty-five.
- (iii) lines on wood supports Twenty.
- (j) Meters Fifteen.
- (k) Self-propelled vehicles Seven.
- (l) Static machine tools Twenty.
- (m) Air-conditioning plant—
- (i) static Fifteen.
- (iii) portable Seven.
- (n) (i) Office furniture and fittings Twenty.
- (ii) Office equipment Ten.
- (o) Apparatus let on hire—
- (i) other than motors Seven
- (ii) motors Twenty.

D. Assets purchased second hand and assets not otherwise provided for in this table.

Such reasonable period as the Government determine in each case, having regard to the nature, age and condition of the asset at the time of its acquisition by the Government.

சென்னை, 1977

சென்னை, 1977

சென்னை, 1977

சென்னை, 1977

சென்னை, 1977

சென்னை, 1977



சென்னை, 1977

சென்னை, 1977